

# FEDERAL REGISTER



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# Rules and Regulations

## Title 7—AGRICULTURE

### Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

#### PART 51—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

##### Subpart—United States Standards for Grades of Shelled Almonds<sup>1</sup>

On July 7, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 6362) regarding a proposed revision of United States Standards for Shelled Almonds.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Grades of Shelled Almonds are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

The proposed United States Standards for Grades of Shelled Almonds which were contained in the aforesaid notice are hereby adopted in the form in which such standards appeared in said notice and are hereby incorporated herein by this reference except for the following changes:

1. At the beginning of the table of contents, insert the abbreviation "Sec."
2. In § 51.2105(a) (4) insert the word "For" in front of words "Foreign material", and change capital "F" to small "f" in word Foreign.
3. In § 51.2106, line three, delete comma after the word "clean."
4. In § 51.2106(a) (1), line one, add comma after the words "5 percent."
5. In § 51.2106(a) (2), end of line, change comma to semicolon.
6. In § 51.2109(a) (1), delete everything following "or 1 percent," and substitute the words "for bitter almonds mixed with sweet almonds."
7. In § 51.2111(a), parenthetical reference, insert second section symbol after word "see", and delete section symbol after word "and."
8. In § 51.2114, line eleven, change order of words to read "commonly used are".

#### GRADES

Sec.	
51.2105	U.S. Fancy.
51.2106	U.S. Extra No. 1.
51.2107	U.S. No. 1.
51.2108	U.S. Select Sheller Run.
51.2109	U.S. Standard Sheller Run.

<sup>1</sup> Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

Sec.	
51.2110	U.S. No. 1 Whole and Broken.
51.2111	U.S. No. 1 Pieces.

#### MIXED VARIETIES

51.2112 Mixed varieties.

#### UNCLASSIFIED

51.2113 Unclassified.

#### SIZE

51.2114 Size requirements.

51.2115 Tolerances for size.

#### APPLICATION OF TOLERANCES

51.2116 Application of tolerances.

#### DEFINITIONS

51.2117 Similar varietal characteristics.

51.2118 Whole.

51.2119 Clean.

51.2120 Well dried.

51.2121 Decay.

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51.2123 Insect injury.

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51.2125 Doubles.

51.2126 Split or broken kernels.

51.2127 Particles and dust.

51.2128 Injury.

51.2129 Damage.

51.2130 Serious damage.

51.2131 Diameter.

51.2132 Fairly uniform in size.

AUTHORITY: §§ 51.2105 to 51.2132 issued under secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627.

#### GRADES

##### § 51.2105 U.S. Fancy.

"U.S. Fancy" consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from injury caused by chipped and scratched kernels, and free from damage caused by mold, gum, shriveling, brown spot or other means. (See §§ 51.2114 and 51.2115.)

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(2) *For doubles.* 3 percent;

(3) *For kernels injured by chipping and/or scratching.* 5 percent;

(4) *For foreign material.* Two-tenths of 1 percent (0.20%);

(5) *For particles and dust.* One-tenth of 1 percent (0.10%); and,

(6) *For other defects.* 2 percent, including not more than one-half of this amount, or 1 percent, for split or broken kernels, and including not more than one-half of the former amount, or 1 percent, for seriously damaged kernels.

##### § 51.2106 U.S. Extra No. 1.

"U.S. Extra No. 1" consists of shelled almonds of similar varietal character-

istics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from damage caused by chipped and scratched kernels, mold, gum, shriveling, brown spot or other means. (See §§ 51.2114 and 51.2115.)

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(2) *For doubles.* 5 percent;

(3) *For kernels damaged by chipping and/or scratching.* 5 percent;

(4) *For foreign material.* Two-tenths of 1 percent (0.20%);

(5) *For particles and dust.* One-tenth of 1 percent (0.10%); and,

(6) *For other defects.* 4 percent, including not more than one-fourth of this amount, or 1 percent, for split or broken kernels, and including not more than three-eighths of the former amount, or 1½ percent, for seriously damaged kernels.

##### § 51.2107 U.S. No. 1.

"U.S. No. 1" consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from damage caused by chipped and scratched kernels, mold, gum, shriveling, brown spot or other means. (See §§ 51.2114 and 51.2115.)

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(2) *For doubles.* 15 percent;

(3) *For kernels damaged by chipping and/or scratching.* 10 percent;

(4) *For foreign material.* Two-tenths of 1 percent (0.20%);

(5) *For particles and dust.* One-tenth of 1 percent (0.10%); and,

(6) *For other defects.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for split or broken kernels, and including not more than three-tenths of the former amount, or 1½ percent, for seriously damaged kernels.

##### § 51.2108 U.S. Select Sheller Run.

"U.S. Select Sheller Run" consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from damage

caused by chipped and scratched kernels, mold, gum, shriveling, brown spot or other means. (See §§ 51.2114 and 51.2115.)

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

- (1) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;
- (2) *For doubles.* 15 percent;
- (3) *For kernels damaged by chipping and/or scratching.* 20 percent;
- (4) *For foreign material.* Two-tenths of 1 percent (0.20%);
- (5) *For particles and dust.* One-tenth of 1 percent (0.10%);
- (6) *For split and broken kernels.* 5 percent: *Provided*, That not more than two-fifths of this amount, or 2 percent, shall be allowed for pieces which will pass through a round opening  $\frac{29}{64}$  inch in diameter; and,
- (7) *For other defects.* 3 percent, including not more than two-thirds of this amount, or 2 percent, for serious damage.

#### § 51.2109 U.S. Standard Sheller Run.

"U.S. Standard Sheller Run" consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from damage caused by chipped and scratched kernels, mold, gum, shriveling, brown spot or other means. (See §§ 51.2114 and 51.2115.)

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

- (1) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;
- (2) *For doubles.* 25 percent;
- (3) *For kernels damaged by chipping and/or scratching.* 20 percent;
- (4) *For foreign material.* Two-tenths of 1 percent (0.20%);
- (5) *For particles and dust.* One-tenth of 1 percent (0.10%);
- (6) *For split and broken kernels.* 15 percent: *Provided*, That not more than one-third of this amount, or 5 percent, shall be allowed for pieces which will pass through a round opening  $\frac{29}{64}$  inch in diameter; and,
- (7) *For other defects.* 3 percent, including not more than two-thirds of this amount, or 2 percent, for serious damage.

#### § 51.2110 U.S. No. 1 Whole and Broken.

"U.S. No. 1 Whole and Broken" consists of shelled almonds of similar varietal characteristics which are clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, particles and dust, and free from damage caused by mold, gum, shriveling, brown spot or other means.

(a) In this grade not less than 30 percent, by weight, of the kernels shall be whole. Doubles shall not be considered

as whole kernels in determining the percentage of whole kernels.

(b) Unless otherwise specified, the minimum diameter shall be not less than  $\frac{29}{64}$  of an inch. (See §§ 51.2114 and 51.2115.)

(c) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

- (1) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;
- (2) *For doubles.* 35 percent;
- (3) *For foreign material.* Three-tenths of 1 percent (0.30%);
- (4) *For particles and dust.* One-tenth of 1 percent (0.10%);
- (5) *For undersize.* 5 percent; and,
- (6) *For other defects.* 5 percent, including not more than three-fifths of this amount, or 3 percent, for serious damage.

#### § 51.2111 U.S. No. 1 Pieces.

"U.S. No. 1 Pieces" consists of shelled almonds which are not bitter, which are clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, particles and dust, and free from damage caused by mold, gum, shriveling, brown spot or other means.

(a) Unless otherwise specified, the minimum diameter shall be not less than  $\frac{3}{4}$  of an inch. (See §§ 51.2114 and 51.2115.)

(b) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

- (1) *For bitter almonds mixed with sweet almonds.* 1 percent;
- (2) *For foreign material.* Three-tenths of 1 percent (0.30%);
- (3) *For particles and dust.* 1 percent; and,
- (4) *For other defects.* 5 percent, including not more than three-fifths of this amount, or 3 percent, for serious damage.

#### MIXED VARIETIES

##### § 51.2112 Mixed varieties.

Any lot of shelled almonds consisting of a mixture of two or more dissimilar varieties which meet the other requirements of any of the grades of U.S. No. 1, U.S. Select Sheller Run, U.S. Standard Sheller Run, U.S. No. 1 Whole and Broken may be designated as: "U.S. No. 1 Mixed;" "U.S. Select Sheller Run Mixed;" "U.S. Standard Sheller Run Mixed;" or "U.S. No. 1 Whole and Broken Mixed," respectively; but no lot of any of these grades may include more than 1 percent of bitter almonds mixed with sweet almonds.

#### UNCLASSIFIED

##### § 51.2113 Unclassified.

"Unclassified" consists of shelled almonds which have not been classified in accordance with any of the foregoing grades. The term "unclassified" is not a grade within the meaning of these standards but is provided as a designation

to show that no definite grade has been applied to the lot.

#### § 51.2114 Size requirements.

The size may be specified in terms of range in count of whole almond kernels per ounce or in terms of minimum, or minimum and maximum diameter. When a range in count is specified, the whole kernels shall be fairly uniform in size, and the average count per ounce shall be within the range specified. Doubles and broken kernels shall not be used in determining counts. Count ranges per ounce commonly used are shown below, but other ranges may be specified: *Provided*, That the kernels are fairly uniform in size.

#### Count Range per Ounce

16 to 18, inclusive.  
18 to 20, inclusive.  
20 to 22, inclusive.  
22 to 24, inclusive.  
23 to 25, inclusive.  
24 to 26, inclusive.  
26 to 28, inclusive.  
27 to 30, inclusive.  
30 to 34, inclusive.  
34 to 40, inclusive.  
40 to 50, inclusive.  
50 and smaller.

#### § 51.2115 Tolerances for size.

(a) When a range is specified as, for example, "18/20," no tolerance for counts above or below the range shall be allowed.

(1) When the minimum, or minimum and maximum diameters are specified, a total tolerance of not more than 10 percent, by weight, may fail to meet the specified size requirements: *Provided*, That not more than one-half of this amount, or 5 percent, may be below the minimum size specified.

#### § 51.2116 Application of tolerances.

The tolerances for the grades are to be applied to the entire lot, and a composite sample shall be taken for determining the grade. However, any container or group of containers in which the almonds are found to be materially inferior to those in the majority of the containers shall be considered a separate lot.

#### DEFINITIONS

##### § 51.2117 Similar varietal characteristics.

"Similar varietal characteristics" means that the kernels are similar in shape and appearance. For example, long types shall not be mixed with short types, or broad types mixed with narrow types, and bitter almonds shall not be mixed with sweet almonds. Color of the kernels shall not be considered, since there is often a marked difference in skin color of kernels of the same variety.

##### § 51.2118 Whole.

"Whole" means that there is less than one-eighth of the kernel chipped off or missing, and that the general contour of the kernel is not materially affected by the missing part.

##### § 51.2119 Clean.

"Clean" means that the kernel is practically free from dirt and other foreign substance.

**§ 51.2120 Well dried.**

"Well dried" means that the kernel is firm and brittle, and not pliable or leathery.

**§ 51.2121 Decay.**

"Decay" means that the kernel is putrid or decomposed.

**§ 51.2122 Rancidity.**

"Rancidity" means that the kernel is noticeably rancid to the taste.

**§ 51.2123 Insect injury.**

"Insect injury" means that the insect, web, or frass is present or there is definite evidence of insect feeding.

**§ 51.2124 Foreign material.**

"Foreign material" means pieces of shell, hulls or other foreign matter which will not pass through a round opening  $\frac{3}{4}$  of an inch in diameter.

**§ 51.2125 Doubles.**

"Doubles" means kernels that developed in shells containing two kernels. One side of a double kernel is flat or concave.

**§ 51.2126 Split or broken kernels.**

"Split or broken kernels" means seven-eighths or less of complete whole kernels but which will not pass through a round opening  $\frac{3}{4}$  of an inch in diameter.

**§ 51.2127 Particles and dust.**

"Particles and dust" means fragments of almond kernels or other material which will pass through a round opening  $\frac{3}{4}$  of an inch in diameter.

**§ 51.2128 Injury.**

"Injury" means any defect which more than slightly detracts from the appearance of the individual almond, or the general appearance of the lot. The following shall be considered as injury:

(a) Chipped and scratched kernels when the general appearance of the lot is more than slightly affected, or when the affected area on an individual kernel aggregates more than the equivalent of a circle one-eighth inch in diameter.

**§ 51.2129 Damage.**

"Damage" means any defect which materially detracts from the appearance of the individual kernel, or the general appearance of the lot, or the edible or shipping quality of the almonds. Any one of the following defects or combination thereof, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as damage:

(a) Chipped and scratched kernels, when the general appearance of the lot is materially affected, or when the affected area on an individual kernel aggregates more than the equivalent of a circle one-quarter inch in diameter;

(b) Mold, when visible on the kernel, except when white or gray and easily rubbed off with the fingers;

(c) Gum, when a film of shiny, resinous appearing substance covers more than one-eighth of the surface of the kernel;

(d) Shriveling, when the kernel is excessively thin for its size, or when materially withered, shrunken, leathery,

tough or only partially developed: *Provided*, That partially developed kernels are not considered damaged if more than three-fourths of the pellicle is filled with meat; and,

(e) Brown spot on the kernel, either single or multiple, when the affected area aggregates more than the equivalent of a circle one-eighth inch in diameter.

**§ 51.2130 Serious damage.**

"Serious damage" means any defect which makes a kernel or piece of kernel unsuitable for human consumption, and includes decay, rancidity, insect injury and damage by mold.

**§ 51.2131 Diameter.**

"Diameter" means the greatest dimension of the kernel, or piece of kernel at right angles to the longitudinal axis. Diameter shall be determined by passing the kernel or piece of kernel through a round opening.

**§ 51.2132 Fairly uniform in size.**

"Fairly uniform in size" means that, in a representative sample, the weight of 10 percent, by count, of the largest whole kernels shall not exceed 1.70 times the weight of 10 percent, by count, of the smallest whole kernels.

It is hereby found that good cause exists for advancing the effective date of these standards from the customary 30 days after publication in the *FEDERAL REGISTER* to the earlier date of Aug. 15, 1960 (5 U.S.C. 1001-1011) in that: (1) The packing season for almonds will start during the latter part of August, and it is in the interest of the public and the industry that the revised standards become effective before that time; and (2) no special preparation on the part of the almond industry is required for compliance with the revised standards.

The United States Standards for Grades of Shelled Almonds contained in this subpart shall become effective August 15, 1960, and will thereupon supersede the United States Standards for Shelled Almonds which have been in effect since October 30, 1952 (7 CFR §§ 51.2105 to 51.2132).

Dated: July 29, 1960,

S. T. WARRINGTON,  
Deputy Administrator,  
Marketing Services.

[F.R. Doc. 60-7200; Filed, Aug. 2, 1960; 8:49 a.m.]

## Chapter II—Agricultural Marketing Service (School Lunch Program), Department of Agriculture

### PART 210—NATIONAL SCHOOL LUNCH PROGRAM

#### Appendix—Apportionment of Food Assistance Funds Pursuant to National School Lunch Act, as Amended, Fiscal Year, 1961

Pursuant to section 4 of the National School Lunch Act, as amended (42 U.S.C. 1751-1760) food assistance funds available for the fiscal year ending June 30,

1961, are apportioned among the States as follows:

State	Total	State agency	Withheld for private schools
Alabama.....	\$2,641,025	\$2,556,484	\$84,541
Alaska.....	90,337	90,337	—
Arizona.....	706,077	641,122	64,955
Arkansas.....	1,578,227	1,544,318	33,909
California.....	5,501,377	5,501,377	—
Colorado.....	833,008	757,122	75,886
Connecticut.....	779,527	779,527	—
Delaware.....	158,220	128,651	29,569
District of Columbia.....	213,156	213,156	—
Florida.....	2,376,529	2,239,001	137,528
Georgia.....	2,858,391	2,858,391	—
Guam.....	69,907	58,767	11,146
Hawaii.....	377,267	309,955	67,312
Idaho.....	427,875	410,231	17,644
Illinois.....	3,836,111	3,836,111	—
Indiana.....	2,313,543	2,313,543	—
Iowa.....	1,475,602	1,293,371	182,231
Kansas.....	1,037,137	1,037,137	—
Kentucky.....	2,402,479	2,402,479	—
Louisiana.....	2,224,607	2,224,607	—
Maine.....	546,719	403,234	83,485
Maryland.....	1,359,478	1,132,092	227,386
Massachusetts.....	1,877,952	1,877,952	—
Michigan.....	3,833,988	3,263,608	570,380
Minnesota.....	1,779,017	1,479,089	300,828
Mississippi.....	2,393,471	2,393,471	—
Missouri.....	1,921,241	1,921,241	—
Montana.....	370,400	329,704	40,696
Nebraska.....	737,801	634,745	103,056
Nevada.....	108,462	101,240	7,222
New Hampshire.....	293,445	233,445	—
New Jersey.....	2,116,597	1,647,797	468,800
New Mexico.....	561,166	561,166	—
New York.....	5,622,985	5,622,985	—
North Carolina.....	3,606,014	3,606,014	—
North Dakota.....	406,831	362,029	44,802
Ohio.....	4,315,091	3,649,285	665,806
Oklahoma.....	1,305,039	1,305,039	—
Oregon.....	874,905	874,905	—
Pennsylvania.....	4,921,507	3,883,868	1,037,639
Puerto Rico.....	3,245,229	3,245,229	—
Rhode Island.....	393,468	393,468	—
South Carolina.....	2,349,215	2,313,436	35,779
South Dakota.....	435,917	435,917	—
Tennessee.....	2,556,455	2,480,999	75,456
Texas.....	5,543,735	5,215,654	328,101
Utah.....	574,141	562,386	11,755
Vermont.....	216,888	216,888	—
Virginia.....	2,440,644	2,327,094	122,550
Virgin Islands.....	39,494	39,494	—
Washington.....	1,293,880	1,202,113	91,776
West Virginia.....	1,438,674	1,396,680	41,994
Wisconsin.....	2,036,506	1,562,061	473,545
Wyoming.....	163,334	163,334	—
Total.....	93,600,000	88,154,223	5,445,777

(Secs. 2-11, 60 Stat. 230-233, as amended; 42 U.S.C. 1751-1760)

Dated: July 29, 1960.

ORIS V. WELLS,  
Administrator.

[F.R. Doc. 60-7202; Filed, Aug. 2, 1960; 8:49 a.m.]

## Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order 1014]

### PART 1014—MILK IN MISSISSIPPI GULF COAST MARKETING AREA

#### Order Suspending Certain Provision(s)

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Mississippi Gulf Coast marketing area (7 CFR Part 1014), it is hereby found and determined that:

(a) The following provision of the order does not tend to effectuate the declared policy of the Act for the month of August 1960:

(1) In § 1014.14 "or to a nonpool plant for the account of such handler but for not more than 10 days' production during any months of September through January".

(b) Notice of proposed rule making, public procedure thereon, and 30 days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) The existing diversion provisions of the order, intended to assure orderly disposition of the necessary market reserves and seasonal surplus, have been used in a way which has caused unsettled marketing conditions with the result that wide variation in returns to producers in this market have occurred. These variations prompted the request for the hearing held December 15-17, 1959 (24 F.R. 9742) to revise the existing diversion provisions. The market is in relatively short supply of regular producer milk and continuation of wide variation in returns to producers may jeopardize the maintenance of an adequate regular supply.

Suspension of diversion privilege for the month of August is necessary to preserve orderly marketing of the regular market supply.

This suspension action is based on the evidence adduced at the December hearing, relating to proposed revision of the diversion provisions. Since it is not possible to take amendatory action to be effective by August 1, suspension action is necessary to prevent diversion for the month of August 1960.

Therefore, good cause exists for making this order effective August 1, 1960.

*It is therefore ordered*, That the aforesaid provision of the order is hereby suspended effective August 1, 1960 for the month of August 1960.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Issued at Washington, D.C., this 29th day of July 1960.

CLARENCE L. MILLER,  
Assistant Secretary.

[F.R. Doc. 60-7201; Filed, Aug. 2, 1960; 8:49 a.m.]

## Title 13—BUSINESS CREDIT AND ASSISTANCE

### Chapter I—Small Business Administration

[Amdt. 7]

### PART 107—SMALL BUSINESS INVESTMENT COMPANIES

#### Miscellaneous Amendments

There was published in the FEDERAL REGISTER on June 16, 1960 (25 F.R. 5401),

a proposal to amend § 107.301-1(b), relating to the issue of stock by eliminating the cash limitation; § 107.302-2, relating to the issuance of stock for cash or other consideration; §§ 107.304-1(b) and 107.305-1(b), relating to emphasizing the long-term characteristic of debentures and loans; and § 107.308-7, relating to the limitation on reducing the original paid-in capital and surplus.

Interested persons were given an opportunity to present their comments or suggestions pertaining thereto, to the Investment Division, Small Business Administration, Washington 25, D.C., within 20 days after the date of publication of the notice in the FEDERAL REGISTER. After consideration of all such relevant matter as was presented by interested persons regarding the proposed amendments, the amendments of the regulations as so proposed are hereby adopted as set forth below.

Because of the necessity for promptly applying the proposed procedures to the program authorized under the Small Business Investment Act of 1958, as amended by the Small Business Investment Act Amendments of 1960, the subject amendments of the regulations shall become effective upon publication thereof in the FEDERAL REGISTER.

The Small Business Investment Company Regulation (23 F.R. 9383), as amended (25 F.R. 1397, 2354, 3316, 5374, 5478, and 5825), is hereby further amended by:

1. Deleting the following from § 107.301-1(b): "for a minimum amount of cash".

As amended § 107.301-1(b) reads as follows:

#### § 107.301-1 Charter requirements.

(b) To issue a maximum number of shares of one or more types of its stock;

2. Deleting § 107.302-2 and inserting in lieu thereof a new § 107.302-2.

As amended § 107.302-2 reads as follows:

#### § 107.302-2 Consideration for stock of Licensee.

(a) Shares of stock of any class in a Licensee which represent the initial minimum capital required by § 107.201-5(c) shall be issued by Licensee only in consideration for the simultaneous payment of cash or upon the simultaneous transfer to the Licensee of direct obligations of, or obligations guaranteed as to principal and interest by, the United States. Shares of stock of any class in a Licensee which represent no part of the initial minimum capital required by § 107.201-5(c) may be issued in consideration for the simultaneous payment of cash; upon the simultaneous transfer to the Licensee of direct obligations of, or obligations guaranteed as to principal and interest by, the United States; as stock dividends; in connection with the reclassification of the stock of the Licensee; for services previously rendered to the Licensee; or for physical assets to be employed currently in the operation of the Licensee.

(b) Options upon the stock of a Licensee may be granted to an individual only upon approval of at least a majority of such Licensee's stockholders and only in lieu of salary or in payment for services actually rendered such Licensee, and only if:

(1) At the time such option is granted the option price is at least 85 percent of the fair market value at such time of the stock subject to the option;

(2) Such option by its terms is not transferable by such individual otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him;

(3) Such individual, at the time the option is granted, does not own stock possessing more than 10 percent of the total combined voting power of all classes of stock of such Licensee. This subparagraph shall not apply if at the time such option is granted the option price is at least 110 percent of the fair market value of the stock subject to the option and such option by its terms is not exercisable after the expiration of five years from the date such option is granted. For purposes of this subparagraph—

(i) Such individual shall be considered as owning the stock owned, directly or indirectly, by or for his brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; and

(ii) Stock owned, directly or indirectly, by or for a corporation, partnership, estate, or trust, shall be considered as being owned proportionately by or for its shareholders, partners, or beneficiaries; and

(4) Such option by its terms is not exercisable after the expiration of ten years from the date such option is granted.

3. Deleting the paragraph numbered (b) in § 107.304-1 and inserting in lieu thereof a new paragraph (b).

As amended § 107.304-1(b) reads as follows:

#### § 107.304-1 Sale and purchase of convertible debentures.

(b) All such convertible debentures shall have stated maturities of not less than five years and no Licensee shall purchase convertible debentures from a small business concern if the purpose of such purchase is to furnish the small business concern with financing of less than five years' duration. All such debentures shall be callable by the issuer on any interest payment date upon three months' notice, at the face value thereof plus accrued interest thereon, and shall contain an option for the original holder or any holder in due course thereof, to convert the same into stock of the small business concern, at any time up to and including the effective date of any call thereof by the small business concern.

4. Deleting the paragraph numbered (b) in § 107.305-1 and inserting in lieu thereof a new paragraph (b).

As amended § 107.305-1(b) reads as follows:

**§ 107.305-1 Long-term loans by Licensee to small business concerns.**

(b) Any such loan made by a Licensee to a small business concern shall provide for a maturity of not less than five years and no Licensee shall make a loan to any small business concern if the purpose of such loan is to furnish the small business concern with financing of less than five years' duration: *Provided, however*, That loans for terms of less than five years may be made to a borrower which has previously received a long-term loan or has outstanding convertible debentures to such Licensee, when necessary to protect the interests of a Licensee in such long-term loan or outstanding convertible debentures.

5. Adding the following to § 107.308-7 (c): "A Licensee shall not voluntarily reduce its paid-in capital and paid-in surplus as it existed at the time of the issuance of its License, without the prior written consent of SBA, and"

As amended § 107.308-7(c) reads as follows:

**§ 107.308-7 Activities of Licensee.**

(c) A Licensee shall not voluntarily reduce its paid-in capital and paid-in surplus as it existed at the time of the issuance of its License, without the prior written consent of SBA, and a Licensee shall not change its investment policy, plans to raise additional capital, borrowing or other plans, previously submitted to SBA in its Proposal or otherwise, without the prior written consent of SBA. Any change in the officers, directors or owners of ten or more percent of its stock, as set forth in its Proposal or otherwise previously submitted to SBA, shall be reported immediately to SBA; and such changes shall be subject to the approval of SBA as a condition for the continuance of the License of such Licensee. Any conditions imposed by SBA in connection with the latter shall be complied with by the Licensee.

Dated: July 25, 1960.

PHILIP MCCALLUM,  
Administrator.

[F.R. Doc. 60-7191; Filed, Aug. 2, 1960; 8:47 a.m.]

## Title 32—NATIONAL DEFENSE

### Chapter XVII—Office of Civil and Defense Mobilization

#### PART 1701—CONTRIBUTIONS FOR CIVIL DEFENSE EQUIPMENT

##### State Procurement

Section 1701.10 is revised to read as follows:

**§ 1701.10 State procurement.**

All civil defense equipment (other than that which may be approved for Federal purchase under the succeeding section) must be procured by the State or its political subdivision and in accordance with the following requirements: *Provided, however*, That the Director may specify that the provisions of this section do not apply to training and education courses conducted on a program basis and may make special provisions therefor in the Contributions Manual AM25-1.

(a) *Specifications.* Civil defense equipment procured by the States must comply with OCDM standards where established by OCDM specifications for such equipment. If the States desire to deviate from OCDM specifications, permission must be obtained in advance from the OCDM. The request for deviation from OCDM specifications must be justified in quantitative terms and must show how its approval will promote efficient and economical civil defense utilization of such equipment. If State or local specifications are so drawn that only one manufacturer is able to bid on the equipment, or a manufacturer whose equipment meets minimum OCDM specifications is precluded from bidding, prior approval for procurement of the equipment under such specifications must be obtained from the OCDM. This is done by the submission to OCDM of a copy of the restrictive specifications with a statement justifying the need therefor.

(b) *Purchase procedures.* Procurement of any item of civil defense equipment by the State (or political subdivision, if applicable) must comply with all statutes, regulations, and ordinances covering purchasing by such State or the political subdivision thereof. In addition, if the Federal share of the total estimated cost for all similar or identical items exceeds \$1,250, procurement must be by invitation to bid through formal advertisement, and OCDM contributions will be limited to its share of the amount of the lowest acceptable bid.

(c) *Formal advertisement.* Formal advertisement, as used above, means procurement by competitive bids and awards as prescribed in the Contributions Manual AM25-1 and involves the following basic steps:

(1) Preparation of the invitation for bids, describing the requirements of the State and local government clearly, accurately, and completely, but avoiding unnecessarily restrictive specifications or requirements which might unduly limit the number of bidders. The term "invitation for bids" means the complete assembly of related documents (whether attached or incorporated by reference) furnished prospective bidders for the purpose of bidding.

(2) Publicizing the invitation for bids (1) through publication of notices in a newspaper or other recognized periodical

having general circulation in the competitive area, or (ii) through a combination of posting of public notices and circularizing all known suppliers, or (iii) through distribution to prospective bidders whose names are currently on bidder lists maintained in accordance with a system approved by OCDM. Such formal advertising must be initiated in sufficient time to enable prospective bidders to prepare and submit bids before the time set for public opening of bids.

(3) Submission of bids by prospective contractors.

(4) Awarding the contract, after bids are publicly opened, to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the government concerned, price and other factors considered (or rejecting all bids).

(d) *Procurement costs.* The Federal Government will not under these regulations or the program governed by these regulations, contribute to the administrative costs incurred for procurement by the State or its political subdivisions. The project application may, however, include the costs of transportation, installation, and non-Federal taxes (other than those imposed by the State government, or the political subdivision submitting the application). It may also include Federal taxes if an exemption therefrom cannot be obtained by the State or political subdivision.

(e) *Prices.* The OCDM will review the estimated price of each item of civil defense equipment listed in Part II of the project application. In establishing the amount of the Federal contribution to be approved therefor, OCDM will take into account current market conditions and other special circumstances which may be involved in the procurement. OCDM will not contribute to additional expenses which may be incurred due to deviations from standard specifications, where such deviation is not necessary for civil defense purposes.

(f) *Compliance.* The State or political subdivision, if applicable must be prepared to furnish OCDM, upon its request, with proper documentation that there has been compliance with the requirements of these regulations and the related procedures prescribed in the Contributions Manual AM25-1 in connection with procurement of any item of civil defense equipment.

(Sec. 401, 64 Stat. 1254, 72 Stat. 1799, 23 F.R. 4991, 72 Stat. 861, 3 CFR 1958 Supp.; 50 U.S.C. App. 2253, 5 U.S.C. 1332-15; E.O. 10773, 23 F.R. 5061, E.O. 10782, 23 F.R. 6971, 3 CFR 1958 Supp.)

*Effective date.* This revision shall be effective upon publication in the FEDERAL REGISTER.

Dated: July 22, 1960.

LEO A. HOEGH,  
Director.

[F.R. Doc. 60-7192; Filed, Aug. 2, 1960; 8:48 a.m.]

# Title 14—AERONAUTICS AND SPACE

## Chapter III—Federal Aviation Agency

### SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Reg. Docket No. 451; Amdt. 176]

## PART 609—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Alterations

The new and revised standard instrument approach procedures appearing hereinafter are adopted to become effective and/or canceled when indicated in order to promote safety. The revised procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the revised procedures specify the complete procedure and indicate the changes to the existing procedures. Pursuant to authority delegated to me by the Administrator (24 F.R. 5662), I find that a situation exists requiring immediate action in the interest of safety, that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective on less than thirty days' notice.

Part 609 (14 CFR Part 609) is amended as follows:

1. The low or medium frequency range procedures prescribed in § 609.100(a) are amended to read in part:

#### LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	

PROCEDURE CANCELLED, EFFECTIVE AUGUST 13, 1960, OR UPON DECOMMISSIONING OF ASBURY PARK FM.

City, Belmar; State, N.J.; Airport Name, Monmouth County; Elev., 180'; Fac. Class., SBMRLZ; Ident., NEL; Procedure No. 1, Amdt. 1; Eff. Date, 18 Jan. 58; Sup. Amdt. No. Orig.; Dated, 23 Nov. 57

Pensacola VOR.....	PNS-LFR.....	Direct.....	1500	T-dn.....	300-1	300-1	200-1½
Harold Int.....	PNS-LFR.....	Direct.....	1400	C-dn.....	400-1	500-1	500-1½
Milton Int.....	PNS-LFR.....	Direct.....	1300	S-dn-34.....	400-1	400-1	400-1
				A-dn.....	800-2	800-2	800-2

#### Radar terminal area transition altitudes:

All bearings clockwise from Radar Site.

Sector 060° to 200°—1200' within 20 miles.

Sector 290° to 060°—1400' within 20 miles.

Radar control must provide 1000' vertical clearance within a 3 mile radius or 500' vertical clearance within a 3- to 5-mile (inclusive) radius of 467' MSL tower 3.5 miles SW of airport.

Procedure turn E side S crs, 161° Outbnd, 341° Inbnd, 1200' within 10 miles. Beyond 10 miles NA due warning area.

Minimum altitude over facility on final approach crs, 700'.

Crs and distance, facility to airport, 343°—1.8.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 mi after passing LFR, climb to 1300' on the N crs of the Pensacola LFR (341° mag.) within 15 mi or, when directed by ATC, turn right, climb to 1300' on crs of 053° from the Saufley RBN within 15 miles.

CAUTION: Warning area beyond 10 miles S of PNS range.

AIR CARRIER NOTE: Sliding scale not applicable for landings on Runways 8 and 12.

City, Pensacola; State, Fla.; Airport Name, Municipal; Elev., 121'; Fac. Class., SBRAZ; Ident., PNS; Procedure No. 1, Amdt. 13; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 12; Dated, 26 Dec. 59

Philipsburg VOR.....	PSB-LFR.....	Direct.....	4000	T-dn.....	500-1	500-1	
				C-d.....	600-1	700-1	
				C-n.....	600-2	700-2	
				A-dn.....	1000-2	1000-2	

Procedure turn W side NW crs, 343° Outbnd, 163° Inbnd, 3500' within 10 miles.

Minimum altitude over facility on final approach crs, 3000'.

Crs and distance, facility to airport, 169°—4.3.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles, make a climbing left turn and return to Philipsburg LFR at 4000'.

CAUTION: 2300' MSL unlighted hills 2.0 miles to S and SE of airport.

City, Philipsburg; State, Pa.; Airport Name, Black Moshannon-State; Elev., 1933'; Fac. Class., SBRAZ; Ident., PSB; Procedure No. 1, Amdt. 4; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 3; Dated, 30 Nov. 53

				T-dn.....	300-1	300-1	*200-1½
				C-dn.....	500-1	500-1	500-1½
				S-dn-30.....	400-1	500-1	500-1½
				A-dn.....	800-2	800-2	800-2

Procedure turn E side SE crs, 121° Outbnd, 301° Inbnd, 5600' within 10 miles. NA beyond 10 miles account high terrain.

Minimum altitude over facility on final approach crs, 5100'.

Crs and distance, facility to airport, 301°—2.6.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.6 miles, climb to 6100' on NW crs within 20 miles.

CAUTION: 5144' MSL tower 7.6 miles NW of airport.

\*AIR CARRIER NOTE: 300-1 required Runway 24.

City, Scottsbluff; State, Nebr.; Airport Name, Scottsbluff; Elev., 3965'; Fac. Class., SBMRLZ; Ident., BFF; Procedure No. 1, Amdt. 9; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 8; Dated, 22 Dec. 56

## LFR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Monroe Int.	SEA-LFR	186—22.6	3000	T-dn	300-1	300-1	200-½
Hobart FM	SEA-LFR	269—12.9	4000	C-dn	800-2	800-2	800-2
TCM LFR to SEA LOM	SEA-LFR	356—21.4	2000	A-dn	800-2	800-2	800-2
SEA LOM	SEA-LFR (final)	356—7.8	1200				
SEA VOR	SEA-LFR	013—4.0	2000				
Paine "H"	NW crs SEA-LFR	187—22	3000				

Procedure turn E side of S crs, 176° Outbnd, 356° Inbnd, 2000' within 15 miles. NA beyond 15 miles.

Minimum altitude over facility on final approach crs, 1500'.

\*Descent to 1200' (final) authorized after passing SEA-LOM. If SEA-LOM not received, maintain 1500' over SEA-LFR.

Crs and distance, facility to airport, 290°—2.1.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.1 miles, climb to 2000' on NW crs SEA-LFR to Harbor Island Int. or, when directed by ATC, turn left, climb to 2000' on 224° crs from SEA-LFR to Vashon Int.

NOTES: Aircraft executing a missed approach may, after being reidentified, be radar controlled. All fixes within 30 miles of Seattle-Tacoma Radar may be determined by surveillance Radar.

CAUTION: 606' tank 3 miles W and 578' tower 3¼ miles NW of Boeing Field.

City, Seattle; State, Wash.; Airport Name, Boeing Field; Elev., 17'; Fac. Class., SBRAZ; Ident., SEA; Procedure No. 1, Amdt. 15; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 14; Dated, 3 Dec. 55

Hobart FM	SEA-LFR	Direct	4000	T-dn	300-1	300-1	200-½
SEA-VOR	SEA-LFR	Direct	2000	C-dn	800-2	800-2	800-2
SEA-VOR	Harbor Island FM	Direct	2000	A-dn	800-2	800-2	800-2
Radar Fix 5 miles NW of Harbor Island FM on NW crs SEA-LFR	SEA-LFR (final)	Direct	1500				
Paine "H"	NW crs SEA-LFR	187—22	3000				

Procedure turn W side NW crs, 297° Outbnd, 117° Inbnd, 2000' within 10 miles of Harbor Island FM. NA beyond 10 ml.

Minimum altitude over facility on final approach crs, Harbor Island FM 1500'.

Crs and distance, facility to airport (Harbor Island FM), 117°—3.2.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.2 miles past Harbor Island FM, climb to 2000' on S crs Seattle LFR to Seattle ILS LOM or, when directed by ATC, turn right, climb to 2000' on 224° crs from Seattle LFR to Vashon Int.

NOTES: Aircraft executing a missed approach may, after being reidentified, be radar controlled. All fixes within 30 miles of Seattle-Tacoma Radar may be determined by surveillance Radar.

CAUTION: 606' Tank 3 miles W and 578' Tower 3¼ miles NW of Boeing Field.

City, Seattle; State, Wash.; Airport Name, Boeing Field; Elev., 17'; Fac. Class., SBRAZ; Ident., SEA; Procedure No. 2, Amdt. 3; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 2; Dated, 3 Dec. 55

Monroe Int.	SEA-LFR	186—22.6	3000	T-dn	300-1	300-1	200-½
Hobart FM	SEA-LFR	269—12.9	4000	C-dn	500-1	500-1	500-½
NEJ LFR	SEA-LFR	173—12.2	2000	A-dn	800-2	800-2	800-2
Harbor Island FM	SEA-LFR (final)	117—6.8	1200				
McChord LFR	Seattle LOM	356—21.4	2000				
Seattle LOM	SEA-LFR	354—7.8	2000				
Paine "H"	NW crs SEA-LFR	187—22	3000				

Procedure turn, W side NW crs, 297° Outbnd, 117° Inbnd, 2000' within 10 miles.

Minimum altitude over facility on final approach crs, 1200'.

Crs and distance, facility to airport, 194°—3.5.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.5 miles, climb to 2000' on S crs SEA-LFR to Seattle ILS LOM or, when directed by ATC, turn right, climb to 2000' on 224° crs from SEA-LFR to Vashon Int.

NOTES: Aircraft executing a missed approach may, after being reidentified, be radar controlled. All fixes within 30 miles of Seattle-Tacoma Radar may be determined by surveillance Radar.

City, Seattle; State, Wash.; Airport Name, Seattle-Tacoma Int'l.; Elev., 424'; Fac. Class., SBRAZ; Ident., SEA; Procedure No. 1, Amdt. 15; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 14; Dated 21 Apr. 56

Hobart FM	SEA-LFR	Direct	4000	T-dn	300-1	300-1	200-½
SEA-LOM	SEA-LFR	Direct	2000	C-dn	500-1	500-1	500-½
SEA-VOR	SEA-LFR	Direct	2000	S-dn-16	400-1	400-1	400-1
Vashon Int.	SEA-LFR	Direct	2000	A-dn	800-2	800-2	800-2
SEA-VOR	Harbor Isl FM	Direct	2000				
SEA-LOM	Harbor Isl FM	Direct	2000				
NEJ-LFR	Harbor Isl FM	Direct	2000				
Radar Fix 5 mi NW of Harbor Isl FM on NW crs SEA-LFR	Harbor Isl FM (final)	Direct	1500				
Harbor Isl FM	Boeing Int.* (final)	Direct	1200				
Paine "H"	NW crs SEA-LFR	187—22	3000				

Procedure turn W side NW crs SEA LFR, 297° outbnd, 117° inbnd, 2000' within 10 ml NW of Harbor Isl FM. N.A. beyond 10 ml.

Minimum altitude over SEA VOR, 800'.

Crs and distance, Boeing Int\* to SEA VOR, 160°—4.3 ml.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of SEA-VOR, climb to 2000' on Seattle ILS localizer to the LOM or, when directed by ATC, turn right, climb to 2000' on 224° crs from Seattle LFR to Vashon Int.

NOTES: Aircraft executing a missed approach may, after being reidentified, be radar controlled. All fixes within 30 miles of Seattle-Tacoma Radar may be determined by surveillance Radar.

CAUTION: Tank 561' MSL located immediately NE of airport point.

\*Boeing Int: Int NW crs SEA LFR and R-340 SEA.

City, Seattle; State, Wash.; Airport Name, Seattle-Tacoma Int'l.; Elev., 424'; Fac. Class., SBRAZ; Ident., SEA; Procedure No. 2, Amdt. 4; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 3; Dated, 2 Jan. 60

## 2. The automatic direction finding procedures prescribed in § 609.100(b) are amended to read in part:

## ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
NAS-VOR.....	LOM.....	Direct.....	1500	T-dn.....	300-1	300-1	200-1½
PNS-LFR.....	LOM.....	Direct.....	1500	C-dn.....	400-1	500-1	500-1½
Gonzalez Int.....	LOM (final).....	Direct.....	1300	S-dn-16.....	400-1	400-1	400-1
Milton Int.....	LOM.....	Direct.....	1300	A-dn.....	800-2	800-2	800-2
Harold Int.....	LOM.....	Direct.....	1400				
Elberta Int.....	LOM.....	Direct.....	1400				

## Radar terminal area transition altitudes:

All bearings clockwise from Radar Site.

Sector 060° to 290°—1200' within 20 miles.

Sector 290° to 060°—1400' within 20 miles.

Radar control must provide 1000' vertical clearance within a 3 mile radius or 500' vertical clearance within a 3- to 5-mile (inclusive) radius of 467' MSL tower 3.5 miles SW of airport.

Procedure turn\* E side N crs, 343° Outbnd, 163° Inbnd, 1300' within 10 mi. Beyond 10 mi NA.

Minimum altitude over facility on final approach crs, 700'.

Crs and distance, facility to airport, 163°—3.8 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.8 miles after passing LOM, climb to 1200' on crs of 163° from the LOM within 10 miles or, when directed by ATC, climb to 1200' on crs of 100° from the Pensacola LFR within 15 miles.

CAUTION: Warning area 10 mi S of PNS range.

AIR CARRIER NOTE: Sliding scale not applicable for landings on Runways 8 and 12.

\*Nonstandard due control area limits.

City, Pensacola; State, Fla.; Airport Name, Municipal; Elev., 121'; Fac. Class., LOM; Ident., PN; Procedure No. 1, Amdt. 5; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 4; Dated, 26 Dec. 59

Harbor Island FM.....	LOM.....	Direct.....	2000	T-dn.....	300-1	300-1	200-1½
SEA-VOR.....	LOM.....	Direct.....	2000	C-dn.....	500-1	500-1	500-1½
SEA-LFR.....	LOM.....	Direct.....	2000	S-dn-34.....	400-1	400-1	400-1
Hobart FM.....	LOM.....	Direct.....	4000	A-dn.....	800-2	800-2	800-2
Puyallup Int*.....	LOM (final).....	Direct.....	1600				
McChord LFR.....	LOM.....	Direct.....	2000				
Vashon Int.....	LOM.....	Direct.....	2000				
Palme "H".....	NW crs SEA-LFR.....	187-22.....	3000				

Procedure turn E side of crs, 158° Outbnd, 338° Inbnd, 2000' within 8 mi. NA beyond 8 mi.

Minimum altitude over facility on final approach crs, 1600'.

Crs and distance, facility to airport, 338°—4.3 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.3 miles, climb to 2000' on R-340 SEA-VOR to NW crs SEA-LFR, proceed to Harbor Island Int or, when directed by ATC, turn left, climb to 2000' on 224° crs from SEA-LFR to Vashon Int.

NOTES: Aircraft executing a missed approach may, after being reidentified, be radar controlled. Transition to Puyallup Int authorized from TCM-LFR on 020° crs, 2000'.

\*Int 020° brng from TCM-LFR and S crs SEA-ILS or brng 338° to SE-LOM.

City, Seattle; State, Wash.; Airport Name, Seattle-Tacoma Int'l; Elev., 424'; Fac. Class., LOM; Ident., SE; Procedure No. 1, Amdt. 16; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 15; Dated, 27 June 59

## 3. The very high frequency omnirange (VOR) procedures prescribed in § 609.100(c) are amended to read in part:

## VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
MSY LFR.....	MSY VOR.....	Direct.....	1400	T-dn.....	300-1	300-1	300-1
Laplace RBN.....	MSY VOR (final).....	Direct.....	1400	C-dn.....	500-1	500-1	500-1½
				A-dn.....	NA	NA	NA

Radar site located at Moisant Int'l Airport. Radar transition altitude 1500' within 25 miles. Radar control must provide 1000' clearance when within 3 miles or 500' clearance when between 3-5 miles of radio towers 750' and 563' 12 mi SE of Radar site, and 978' 16 mi ESE of Radar site. Radar may be used to position aircraft for a final approach within 5 miles of MSY-VOR or Bayou St. John FM with the elimination of a procedure turn.

Procedure turn South side of crs, 262° Outbnd, 082° Inbnd, 1400' within 10 mi.

Minimum altitude over VOR on final approach crs, 900'.

Crs and distance, facility to airport, 082°—7.6 mi.

Minimum altitude over Bayou St. John FM on final approach crs, 500'.

Crs and distance, Bayou St. John FM to airport, 082°—3.1 mi.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.6 mi of VOR or 3.1 mi after passing Bayou St. John FM, turn left, climb to 2000' on MSY VOR R-079 within 20 miles or, when directed by ATC, turn left, intercept MSY VOR R-064, climbing to 1500' within 20 mi.

CAUTION: 978' MSL tower 6 mi SSE of airport.

NOTES: Air Carrier use NA. Full weather information not available—visibility information only.

City, New Orleans; State, La.; Airport Name, New Orleans; Elev., 8'; Fac. Class., BVOR; Ident., MSY; Procedure No. 1, Amdt. 1; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 1; Dated, 8 Aug. 59

## VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Pellston "H".....	PLN-VOR.....	Direct.....	2300	T-dn..... C-d..... C-n..... S-d-23..... S-n-23.....	300-1 600-1 600-2 600-1 600-2	300-1 600-1 600-2 600-1 600-2	200- $\frac{1}{2}$ 600-1 600-2 600-1 600-2

Procedure turn North side of crs, 050° Outbnd, 230° Inbnd, 2000' within 10 mi.  
Minimum altitude over facility on final approach crs, 1500'.  
Crs and distance, facility to airport, 243°—6.2 mi.  
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.2 miles of VOR, make right 180° turn, climb to 2000', proceed direct to VOR.  
CAUTION: 1276' tower 2.0 mi SW of airport.

City, Pellston; State, Mich.; Airport Name, Emmet County; Elev., 720'; Fac. Class., L-BVOR; Ident, PLN; Procedure No. 1, Amdt. Orig.; Eff. Date, 13 Aug. 60

## 4. The instrument landing system procedures prescribed in § 609.400 are amended to read in part:

## ILS STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Beaumont LFR.....	LOM.....	Direct.....	1400	T-dn.....	300-1	300-1	200- $\frac{1}{2}$
Beaumont VOR.....	LOM.....	Direct.....	1400	C-dn.....	400-1	500-1	500-1 $\frac{1}{2}$
Marsh Int.....	LOM.....	Direct.....	1400	S-dn-11.....	200- $\frac{1}{2}$	200- $\frac{1}{2}$	200- $\frac{1}{2}$
Mitchell Int.....	LOM (final).....	Direct.....	1400	A-dn.....	600-2	600-2	600-2

Procedure turn S side NW crs 293° Outbnd, 113° Inbnd, 1400' within 10 mi. Beyond 10 mi. NA.  
Minimum altitude at glide slope int inbnd, 1400'.  
Altitude of G.S. and distance to approach end of Rwy at OM 1400'—4.8 mi; at MM 215'—0.4.  
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 1400' on SE crs ILS within 20 mi or, when directed by ATC, (1) Turn left, climb to 1400' on R-067 BPT VOR or (2) turn right, climb to 1400' on S crs BPT LFR within 20 miles.  
Major change: Deletes Caution Note.

City, Beaumont; State, Tex.; Airport Name, Jefferson County; Elev., 15'; Fac. Class., ILS; Ident., I-BPT; Procedure No. ILS-11, Amdt. 2; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 1; Dated, 22 Nov. 68

Pensacola VOR.....	LOM.....	Direct.....	1500	T-dn.....	300-1	300-1	200- $\frac{1}{2}$
Pensacola LFR.....	LOM.....	Direct.....	1500	C-dn.....	400-1	500-1	500-1 $\frac{1}{2}$
Gonzalez Int.....	LOM (final).....	Direct.....	1300	S-dn-16*.....	300- $\frac{1}{2}$	300- $\frac{1}{2}$	300- $\frac{1}{2}$
Harold Int.....	LOM.....	Direct.....	1400	A-dn.....	600-2	600-2	600-2
Milton Int.....	LOM.....	Direct.....	1300				
Elberta Int.....	LOM.....	Direct.....	1400				

**Radar terminal area transition altitudes:**  
All bearings clockwise from Radar Site.  
Sector 060° to 290°—1200' within 20 miles.  
Sector 290° to 060°—1400' within 20 miles.  
Radar control must provide 1000' vertical clearance within a 3 mile radius or 500' vertical clearance within a 3- to 5-mile (inclusive) radius of 467' MSL tower 3.5 miles SW of airport.  
Procedure turn E side N crs, 343° Outbnd, 163° Inbnd, 1300' within 10 mi. Beyond 10 mi. NA. (Nonstandard due to control area limits.)  
Minimum altitude at G.S. int inbnd, 1300'.  
Altitude of G.S. and distance to appr end of rny at OM 1266—3.8, at MM 329—0.5.  
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished after passing LOM, climb to 1200' on SE crs of ILS within 10 miles or, when directed by ATC, climb to 1200' on R-100 of the Pensacola (NAS) OMNI within 15 miles.  
NOTE: No approach lights.  
AIR CARRIER NOTE: Sliding scale not applicable for landings on Runways 8 and 12.  
CAUTION: Warning Area beyond 10 miles S of PNS range.  
\*400- $\frac{1}{2}$  required when glide path not utilized.

City, Pensacola; State, Fla.; Airport Name, Municipal; Elev., 121'; Fac. Class., ILS; Ident., I-PNS; Procedure No. ILS-16; Amdt. 5; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 4; Dated, 26 Dec. 59

Pensacola VOR via R-100.....	Blanchard Int*.....	Direct.....	1500	T-dn..... C-dn..... S-dn-34..... A-dn.....	300-1 400-1 400-1 800-2	300-1 500-1 400-1 800-2	200- $\frac{1}{2}$ 500-1 $\frac{1}{2}$ 400-1 800-2
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**Radar terminal area transition altitudes:**  
All bearings clockwise from Radar Site.  
Sector 060° to 290°—1200' within 20 miles.  
Sector 290° to 060°—1400' within 20 miles.  
Radar control must provide 1000' vertical clearance within a 3-mile radius or 500' vertical clearance within a 3- to 5-mile (inclusive) radius of 467' MSL tower 3.5 miles SV of airport.  
Procedure turn E side S crs, 163° Outbnd, 343° Inbnd, 1200' within 10 mi. Blanchard Int.\* Beyond 10 mi NA. due Warning Area.  
No glide slope. Minimum altitude over Blanchard Int 700, distance to appr end of rny at Blanchard Int to Rwy 34, 343°—1.8 mi.  
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 mi after passing Blanchard Int, climb to 1300' on the ILS NW crs within 15 miles or, when directed by ATC, turn right, climb to 1300' on R-053 of the Pensacola OMNI within 15 miles.  
AIR CARRIER NOTE: Sliding scale not applicable for landings on Runways 8 and 12.  
\*Int R-100 NAS and ILS S crs.

City, Pensacola; State, Fla.; Airport Name, Municipal; Elev., 121'; Fac. Class., ILS; Ident., I-PNS; Procedure No. ILS-34, Amdt. 5; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 4; Dated, 26 Dec. 59

## RULES AND REGULATIONS

## ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
SEA LFR.....	LOM.....	Direct.....	2000	T-dn.....	300-1	300-1	200-1½
SEA VOR.....	LOM.....	Direct.....	2000	C-dn.....	500-1	500-1	500-1½
Vashon Int.....	LOM.....	Direct.....	2000	S-dn-34.....	200-½	200-½	200-½
Hobart FM.....	LOM.....	Direct.....	4000	A-dn.....	600-2	600-2	600-2
TCM LFR.....	LOM.....	Direct.....	2000				
Harbor Island FM.....	LOM.....	Direct.....	2000				
TCM LFR.....	Puyallup Int*.....	Direct.....	2000				
Puyallup Int*.....	LOM (final).....	Direct.....	1700				
Paine "H".....	NW crs SEA-LFR.....	187-22.....	3000				

Procedure turn E side of S crs, 153° Outbnd, 338° Inbnd, 2000' within 8 mi. NA beyond 8 mi.

Minimum altitude at glide slope int inbnd, 1700'.

Altitude of glide slope and distance to approach end of runway at OM, 1700'—4.3; at MM, 600'—0.6.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2000' on R-340 SEA-VOR to NW crs SEA-LFR, proceed to Harbor Island Int or, when directed by ATC, turn left, climb to 2000' on 224° crs from Seattle LFR to Vashon Int.

CAUTION: Terrain and trees 523' MSL located immediately N and NE of airport.

NOTES: Aircraft executing a missed approach may, after being reidentified, be radar controlled. All fixes within 30 mi of Seattle-Tacoma Radar may be determined by surveillance radar.

\*Int 020° brng from TCM-LFR and S crs SEA-ILS or brng 338° to SE-LOM.

City, Seattle; State, Wash.; Airport Name, Seattle-Tacoma Int'l; Elev., 424'; Fac. Class., ILS; Ident., SEA; Procedure No. ILS-34, Amdt. 16; Eff. Date, 13 Aug. 60; Sup. Amdt. No. 15; Dated, 27 June 59

### 5. The radar procedures prescribed in § 609.500 are amended to read in part:

#### RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach; or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
				Precision approach			
				T-dn-14.....	300-1	300-1	200-1½
				C-d-14, 32.....	400-1	500-1	500-1½
				C-n-14, 32.....	400-2	500-2	500-2
				S-dn-14-32.....	300-¾	300-¾	300-¾
				A-dn-14, 32.....	600-2	600-2	600-2

No terminal area maneuvering altitudes. Aircraft will be vectored to Gray Field radar final approach area by McChord RAPCON. 2000' minimum transition altitude to Gray Field PAR within 15 mi. north or south of Gray Field.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished—

Runway 14: Turn right, climb to 2000' on 270° crs to Shelton RBn.

Runway 38: Turn left, climb to 2000' on 275° crs to Shelton RBn.

Alternate missed approach: Climb to 3000' on 270° crs, intercept R-020 Olympia VOR. Proceed to Olympia VOR via R-020, maintain 3000'.

NOTES: Aircraft executing missed approach may, after being identified, be radar controlled by McChord RAPCON. Prior arrangement for landing required for civil aircraft not on official business.

City, Ft. Lewis; State, Wash.; Airport Name, Gray AAF; Elev., 301'; Fac. Class., Gray AAF; Ident., Radar; Procedure No. 1, Amdt. 1; Eff. Date, 13 Aug. 60; Sup. Amdt. No. Orig.; Dated, 5 Mar. 60

These procedures shall become effective on the dates indicated on the procedures.

(Secs. 313(a), 307(c), 72 Stat. 752, 749; 49 U.S.C. 1354(a), 1348(c))

Issued in Washington, D.C., on July 15, 1960.

B. PUTNAM,  
Acting Director, Bureau of Flight Standards.

[F.R. Doc. 60-6826; Filed, Aug. 2, 1960; 8:45 a.m.]

**Title 49—TRANSPORTATION****Chapter I—Interstate Commerce Commission****SUBCHAPTER A—GENERAL RULES AND REGULATIONS****PART 7—LIST OF FORMS, PART II, INTERSTATE COMMERCE ACT****SUBCHAPTER D—FREIGHT FORWARDERS****PART 405—SURETY BONDS AND POLICIES OF INSURANCE****Miscellaneous Amendments**

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on the 20th day of July A.D. 1960.

In the matter of security for protection of the public as provided in Part II of the Interstate Commerce Act, and of rules and regulations governing filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements by motor carriers and brokers subject to part II of the Act. Ex Parte No. MC-5.

In the matter of security for protection of the public as provided in Part IV of the Interstate Commerce Act, and of rules and regulations governing filing and approval of surety bonds, policies of

insurance, qualifications as a self-insurer, or other securities and agreements by freight forwarders subject to part IV of the Act; Ex Parte No. 159.

It appearing, that by order of August 22, 1955 (20 F.R. 6608, published September 9, 1955), the Commission, Division 1, approved Form BMC 86 (Revised) (49 CFR 7.86) and Form FF 45 (Revised) (49 CFR 405.8 Note), Blanket Certificate of Insurance and Form BMC 87 (49 CFR 7.87) and Form FF 46 (49 CFR 405.8 Note), Blanket Surety Bond, and,

It further appearing, that such forms were approved to implement increased amounts of automobile bodily injury liability and property damage liability insurance and surety bonds as required by Rule 2 (49 CFR 174.2) of our rules and regulations prescribed in Motor Carrier Insurance for Protection of the Public, 1 M.C.C. 45; 52 M.C.C. 613; and 64 M.C.C. 9, and by Rule 3 (49 CFR 405.3) of our rules and regulations prescribed in Freight Forwarder Insurance for Protection of the Public, 260 I.C.C. 375; 52 M.C.C. 613; and 64 M.C.C. 9, and that these forms are now obsolete;

*It is ordered*, That the order of August 22, 1955 (20 F.R. 6608), insofar as it prescribed the use of Forms BMC 86 (Revised) and BMC 87 (49 CFR 7.86 and 49 CFR 7.87) and FF 45 (Revised) and FF 46 (49 CFR 405.8 Note), be, and it is

hereby, vacated, and Forms BMC 86 (Revised) BMC 87, FF 45 (Revised), and FF 46, be, and they are hereby, canceled; *It is further ordered*, That 49 CFR Part 7 and 49 CFR Part 405, be, and they are hereby, amended as follows:

Section 7.86—*BMC 86 (Revised)*: Cancel this section in its entirety.

Section 7.87—*BMC 87*: Cancel this section in its entirety.

Section 405.8—*Forms and procedure*: From the list of forms in the editorial note to this section, delete the following:

FF 45 (Revised) Blanket certificate of insurance.

FF 46 Blanket surety bond.

*It is further ordered*, That this order shall be effective July 20, 1960 and notice thereof shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of Federal Register.

(Sec. 204, 49 Stat. 546, as amended, 49 U.S.C. 304; Interpret or apply sec. 215, 49 Stat. 557, as amended, 49 U.S.C. 315; sec. 403, 56 Stat. 285, 49 U.S.C. 1003)

By the Commission, Division 1.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 60-7189; Filed, Aug. 2, 1960; 8:47 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[ 7 CFR Part 966 ]

[Docket No. AO-257-A5]

### MILK IN NORTHERN LOUISIANA MARKETING AREA

#### Notice of Recommended Decision and Opportunity To File Written Excep- tions to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the Northern Louisiana marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

**Preliminary statement.** The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Shreveport, Louisiana, on April 19-20, 1960, pursuant to notice thereof which was issued March 31, 1960 (25 F.R. 2859).

The material issues on the record of the hearing relate to:

1. Revision of the definitions of supply plant and distributing plant;
2. Designation of producers' cooperative associations as handlers for the delivery of bulk tank milk of member producers;
3. Filing reports of receipts and utilization;
4. Class I price; and
5. Rules for transfer of producer bases.

**Findings and conclusions.** The following findings and conclusions of the material issues are based on evidence presented at the hearing and the record thereof:

1. **Plant definitions.** The definition of supply plant should be amended to provide that a supply plant in any month is any plant from which Grade A milk and skim milk is received at a distributing plant in an amount equal to a daily average of not less than 5,000 pounds.

Under the present provisions of the order a plant may qualify as a supply plant by shipping, in any of the months of July through February, to distributing plants on ten or more days or an amount equal to a daily average of not less than 8,300 pounds. During the months of March through June, any Grade A milk or skim milk shipped to a distributing plant qualifies a plant as a supply plant.

The proponent cooperative association proposed that the supply plant definition be revised to provide that any plant in any month be required to ship to a distributing plant and have allocated to Class I at least 100,000 pounds of Grade A milk or skim milk.

The Northern Louisiana market has not had supply plants regularly associated with the market. During the past five years there have been only a few occasions when a plant has so qualified. Starting in 1960, however, the Northern Louisiana Pure Milk Producers' Association, Inc., representing most of the producers in this market, equipped a plant to function as a supply plant. This plant was so qualified during the months of March and April 1960. The function of this plant is to provide efficient distribution of producer milk among distributing plants in the market. This market seldom has an excess supply of producer milk on a week-to-week basis. The increased distribution of fluid milk products through stores increases the demand for such products during the end of the week. Correspondingly, the demand for producer milk the first part of the following week decreases. The cooperative association is using the holding tank facilities of their plant to prevent unnecessary movements of producer milk out of the market and of other source milk into the market. In the past, the cooperative has moved producer milk to nonpool plants on Sunday and Monday only to discover that by Wednesday or Thursday of the same week, it was necessary for the cooperative association to import other source milk to fulfill its contractual obligations to handlers operating distributing plants.

The cooperative association should not be required to assume the responsibilities, obligations and expense of a regulated plant except when it actually handles a significant quantity of producer milk through its plant. Furthermore, such a plant should become a supply plant by meeting a single standard of qualification. This standard should represent a substantial quantity of its member producer milk received at the plant and then moved to distributing plants. A standard requiring a supply plant to ship during the month an amount of Grade A milk or skim milk equal to a daily average of not less than 5,000 pounds will accommodate the present marketing conditions in this area not only with respect to the plant operated by the co-

operative association but any other plant that may from time to time ship milk to distributing plants in the market.

The proposal to amend the definition of distributing plant should not be adopted. Presently, the definition excludes plants from which an average of 1,500 pounds or less per day, or less than four percent of the Grade A milk received from producers and from other plants, is distributed in the marketing area. The proposed definition would include all plants from which any milk is distributed in the marketing area. This proposed definition is the same as one that was considered in a previous hearing and rejected in the decision issued June 5, 1956 (21 F.R. 3967). With respect to this issue, circumstances have changed but little.

The purpose of the proposal is to bring under full order regulation all handlers who operate plants from which any Class I products are distributed in the marketing area. For some time two partially regulated handlers have operated in a few small towns in the northeastern and southeastern parts of the marketing area. The other is a larger operator whose plant is outside the area and whose sales within the area are a very small part of the total distribution from this plant. One major regulated handler competes with these partially regulated handlers. The regulated handler contends that he is at a disadvantage because the partially regulated handlers are not subject to order prices and assessments. But, the data do not show that competitive relations and conditions in this part of the area have materially affected the marketing of producer milk. In fact, witnesses testified that sales in the area by these partially regulated handlers were less in 1959 than in 1958 and less in March 1960 than in March 1959; while total Class I sales in the northwest Louisiana marketing area, as reported by the Louisiana Department of Agriculture, were six or seven percent greater in 1959 than in 1958. Also, it appears from the testimony that the buying prices of these handlers are not much different from what they would be under complete order regulation.

It is concluded that the evidence does not justify extending the scope of the order by the inclusion of the plants of these handlers in the category of fully regulated plants. One of these handlers vigorously opposed this proposal on grounds that most of his Class I sales were made in competition with unregulated distributors outside the marketing area. Under the circumstances complete order regulation would be unreasonable. One purpose of the distributing plant provision is to place reasonable limits to the scope of regulation; and existing circumstances constitute no basis for its modification at this time.

2. **Designation of a cooperative association as a handler.** The proposal to designate a cooperative association as a

handler on the bulk tank milk which it delivers to a distributing plant and to make conforming changes with respect to shrinkage and other order provisions should be denied. The proponent handler testified that the issue with respect to this proposal is the accounting for producer milk received by handlers in tank trucks. Presently, the plant handler is required to account for such milk on the basis of individual farm weights and tests. If the cooperative is designated the receiving handler of bulk tank member milk, the plant handler would then be able to receive such milk from the association on tank load weights and tests.

The drivers of the tank trucks are licensed by the State of Louisiana as milk sampler-weighers. Periodic checking of all drivers by the State Department of Agriculture and by representatives is carried out. No serious problem appears to have arisen with respect to milk movements on tank trucks and any dissatisfaction in regard to weights and tests have thus far been satisfactorily adjusted. Moreover, variances between the aggregate farm weights and tests and the weights and tests of tank loads received at fluid milk plants have not been great. In no instance has there been evidence to indicate a greater shrinkage with respect to the receipt of bulk tank milk than the allowable shrinkage on producer milk or even of any greater loss on bulk tank milk received on "stick" weights than in milk received in cans.

The essential reason for denying the proposal, however, is that the cooperative association was not shown to have sufficient responsibility in delivering bulk tank milk to handlers' plants. The hauling is done by licensed haulers under contract with individual producers. The association operates no trucks but merely directs the delivery of milk for its member producers. It has no arrangements with contract haulers that vests it directly with any control and responsibility for problems of the hauling function. The licensed haulers are in effect responsible to the individual producers and handlers for skillful performance of this service including the measuring and sampling of the milk. Since the association has not taken the responsibility for hauling the milk, it is not appropriate to require it to take responsibility for accounting for such milk under the order program.

3. *Filing reports of receipts and utilization.* The proposal requiring handlers' reports of receipts and utilization to be mailed on or before the 5th day after the end of each month should be adopted with provision for delivery of such reports to the market administrator by messenger not later than the 7th day after the end of each month.

The present order provides that each handler shall report on or before the 7th day after the end of each month without reference to the method by which delivery is made. Producer testimony indicated that with the expanded marketing area reports which are mailed should be postmarked on or before the 5th day in order to insure their receipt on or before the 7th day after the end of each month.

It was also stated that a large percentage of handlers are currently reporting to the market administrator by the 5th day at the present time and that this requirement would not be onerous to handlers. Adoption of this proposal would facilitate the payroll operations of the producers' association in that it would permit payment to member producers on an earlier date.

In view of this advantage to producers and the apparent reasonableness of the 5th as the deadline date for mailing, it is concluded that this proposal should be adopted.

4. *Class I price.* Class I price differentials in § 966.51(a) should be changed to a uniform monthly differential equal to the 12 months average of the present seasonal differentials. But the differential of \$2.40, presently effective in the period July 1 through February, should remain in effect until March 1, 1961. Other proposed changes should not be adopted.

The Northern Louisiana Pure Milk Producers' Association proposed that the Class I differential be uniform in all months and that such differential be \$2.65. The monthly average of the present seasonal differentials is \$2.27. The association's proposal would raise the level of Class I prices 38 cents. This was a modification of their original proposal which was for a uniform monthly differential of \$2.45 in the Shreveport sector of the area and \$2.65 in the Monroe sector. But in hearing testimony they emphasized a uniform monthly differential, applicable throughout the area, that would raise the Class I price level.

Producers favor a uniform monthly differential, because they object to the reduction in milk values in the base operating months, and believe that reduced seasonal prices to handlers result in no expansion of sales and compensatory returns to producers from higher Class I utilization of receipts. The association's witness pointed out that seasonal variation in production is not great, and that seasonal excess milk is not a handler problem in the market. It does not burden handlers, since producers, through the association, dispose of excess milk to outside manufacturing plants. Monthly data for 1959 show no real seasonal fluctuation in average daily delivery per producer. January was the low month with 93 percent of the average. September was the high month with 110 percent of the average. Producers testified that under the circumstances the base-excess plan, in itself, furnishes sufficient incentive for even production; and that a uniform monthly Class I price differential would tend to enhance its effect.

From the foregoing it is concluded that supply conditions do not justify continuation of seasonal Class I price differentials. With respect to demand there is no evidence that Class I utilization by handlers would be adversely affected by elimination of seasonal differentials. It would, of course, increase the cost of milk to handlers in certain months and lower it in other months. But handlers gave no evidence that such adjustment in the price would have much effect on

competitive relations in sales territory outside the marketing area. Data presented by proponents tended to show that prices paid by unregulated competitors in outside sales areas tend to vary less seasonally than present order prices. The same may be said in general with respect to prices paid by handlers under other Federal orders, effective in surrounding areas. In two or three of these markets the seasonal variation in this differential is much less than here, and in other cases such variation has been removed, or its removal has been advocated in recent hearings. It is concluded that the substitution in this order of a uniform monthly Class I price differential for the present seasonal differentials would be appropriate.

The more important Class I price question is what the uniform monthly differential should be. As noted above producers proposed that it should be \$2.65, which would raise the level of the Class I price 38 cents. Handlers generally opposed any change in the differential provision that would raise the level of the Class I price. The only exception was a handler proposal to increase the Class I price 20 cents for milk received by plants in the Monroe sector of the area. But the witness for the cooperative association, whose members supply most of the producer milk received by plants in the area, questioned the soundness of this proposal and testified that the association is prepared to continue to supply member milk to plants in the Monroe sector at the same price as to other area plants.

The association's witness based his case for a substantially higher Class I price level on the fact that in several months the supply of producer milk has been insufficient to meet in full the plant requirements for Class I products; and in these months, supplemental receipts from other sources were more costly to handlers than producer milk. It was shown that if handlers were entirely dependent upon producer milk, there would need to be approximately 10 percent more producer milk than is now available. It was also shown that, while supplies of producer milk have steadily increased, the rate of growth only moderately exceeds that of plant demand. It was argued that, for an adequate reserve supply of producer milk, the Class I price must be advanced sufficiently at least to prevent a reduction in producer prices from lower Class I utilization. On the basis of these observations it was contended that the Class I price differential should be raised to \$2.65 per hundredweight in order to attract an adequate supply of producer milk.

It was not claimed, however, that the market is actually short of milk, or that the market is presently less well supplied with producer milk than it has been in the past. The trade has always depended more or less upon milk from other sources, and basic market supply conditions and relations have not changed very much in recent years. But it is significant that annual receipts of producer milk have increased from about 112½ million pounds in 1957 to over 148¾

million pounds in 1959. Class I milk increased from about 114½ million pounds in 1957 to 146½ million pounds in 1959. In relation to Class I milk producer milk has become somewhat more plentiful. The calculated ratios of producer milk to marketwide Class I utilization, as shown in the data, was 98.1 percent in 1957, 98.6 percent in 1958, and 101.5 percent in 1959. But these percentages somewhat understate the increase in producer milk in relation to Class I utilization. In 1957 and 1958, some cooperative member milk was reported and included in the supply figures as associated producer milk, while in 1959, most of such supply was sold "off the market" and not reported as producer milk.

Increased supply of producer milk in 1959 substantially reduced the volume of other source milk utilized in Class I products—only about 2½ million pounds in 1959 in comparison with more than 4 million pounds in 1958 and 4½ million pounds in 1957. Obviously the market depends very little upon other source supply. The average fat test of such supply in 1959 was less than one-half percent, indicating that a large proportion of other source receipts was nonfat solids. The relatively small amount of fresh whole milk needed to supplement producer milk was procured mostly from a plant under the regulation of the North Texas marketing area, where supplies have become available to the Northern Louisiana trade, at prices that appear to be in reasonable alignment with prices in this area. In this connection, it may be observed that since prices here were last reviewed there has been no material change in price and trade relations with other regional trade areas.

From the foregoing review of data and testimony concerning Class I prices it is concluded that there should be no change in the average monthly Class I differential; but that it is unnecessary to make such average differential effective when it would, in effect, reduce the Class I price below that presently provided for fall and winter milk. Hence, the average Class I price differential should not become effective until March 1, 1961. Such provision would avoid reducing returns to producers during the ensuing fall and winter months when, in planning production, producers have undoubtedly anticipated that prices would be no less than the order presently provides.

5. *Transfer of bases.* The proposal to modify the base rules regarding transfer of producer bases should be adopted.

The order presently provides that if a base is transferred to a producer already holding a base, a new base be computed by adding together the producer milk deliveries of the transferee and transferor during the base-forming period and divide the total by the number of days from the first day of delivery by either transferee or transferor during the base-forming period to the last day of such period but not less than 90.

The modification of the base rule provisions, as recommended herein, provides that the transfer of a base from one producer to another be computed by divid-

ing the total volume of milk delivered by the transferor and transferee by the number of days of production, adjusted for overlapping days of production, received at fluid milk plants from both producers during the base-forming period, but by not less than 90. This revision of the order with respect to the transfer of bases will result in a total transferred base more accurately reflective of the deliveries of milk by the two producers. Therefore, the proposal should be adopted.

*Rulings on proposed findings and conclusions.* Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

*General findings.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Recommended marketing agreement and order amending the order.* The following order amending the order regulating the handling of milk in the Northern Louisiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be

the same as those contained in the order, as hereby proposed to be amended:

1. Delete § 966.8 and substitute:

#### § 966.8 Supply plant.

Supply plant means any plant from which during the month Grade A milk or skim milk in an amount equal to a daily average of not less than 5,000 pounds is moved to and received at a plant(s) described pursuant to § 966.7.

2. Amend that portion of § 966.30 which precedes paragraph (a) to read as follows:

#### § 966.30 Reports of receipts and utilization.

By mailing on or before the 5th day after the end of each month, or by delivery not later than the 7th day after the end of the month, each handler (except a producer-handler) shall report to the market administrator in detail and on forms prescribed by the market administrator for each of his fluid milk plants as follows:

#### § 966.51 [Amendment]

3. Amend § 966.51(a) to read as follows:

(a) *Class I milk price.* The minimum price through February 28, 1961, shall be the basic formula price for the preceding month plus \$2.40 and for each month thereafter plus \$2.27.

#### § 966.82 [Amendment]

4. Amend § 966.82(b)(1) to read as follows:

(b)(1) If a base is transferred to a producer already holding a base, a new base shall be computed for the transferee by dividing the total volume of milk delivered to handlers by both producers during the base-forming period by the total number of days of production delivered by both producers during the base-forming period, but not less than 90: *Provided*, That for the purpose of this section, any day on which both the transferor and transferee delivered milk to handlers shall be considered as the delivery of one day of production in computing a new transferee base pursuant to this section.

Issued at Washington, D.C., this 29th day of July 1960.

F. R. BURKE,  
Acting Deputy Administrator.

[F.R. Doc. 60-7199; Filed, Aug. 2, 1960; 8:49 a.m.]

### Agricultural Research Service

#### [ 7 CFR Part 362 ]

### REGULATIONS UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

#### Highly Toxic Economic Poisons

Notice is hereby given, in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003), that the Secretary of Agriculture, pursuant to section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135d), proposes to amend § 362.8 of the regulations for the enforcement of the Federal

Insecticide, Fungicide, and Rodenticide Act (7 CFR 362.8) as follows:

1. It is proposed to add the following paragraph to § 362.8:

If the Secretary finds, after opportunity for hearing, that available data on human experience with any economic poison indicate a toxicity greater than that shown by tests on animals in the above-named dosages, the human data shall take precedence and such economic poison will be considered to be highly toxic to man within the meaning of the Act.

2. It is proposed to insert the phrase "within 14 days" after the word "death" each time the latter word appears in paragraphs (a), (b), and (c) of § 362.8.

The purpose of the proposed amendments is to establish an additional standard and to further define the present standards for determining economic poisons which are highly toxic to man within the meaning of the Act.

Any interested person who wishes to submit written data, views, or arguments concerning the proposed regulation may do so by filing them with the Director, Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C., within thirty days after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of July 1960.

L. F. CURL,  
Acting Director, Plant Pest Control Division, Agricultural Research Service.

[F.R. Doc. 60-7182; Filed, Aug. 2, 1960; 8:46 a.m.]

## DEPARTMENT OF LABOR

Bureau of Employment Security

[ 20 CFR Parts 602, 604 ]

### UNITED STATES EMPLOYMENT SERVICE

#### Rescheduling of Proceedings on Referral of Agricultural Workers in Labor Dispute Situations

On July 16, 1960, notice was published in the FEDERAL REGISTER (25 F.R. 6806) of a proceeding on a proposal to amend 20 CFR 602.2(b) and 604.1(i) concerning the referral by the United States Employment Service of agricultural workers in labor dispute situations.

In order that the record may be improved by certain testimony which will not be available on the date of the proceeding as presently noticed, a change in date is hereby ordered.

Accordingly, under the authority of section 12, 48 Stat. 117, as amended; 29 U.S.C. 49k, and in accordance with section 4(a) of the Administrative Procedure Act (5 U.S.C. 1003(a)), notice is hereby given that the proceeding has been rescheduled to 10:00 a.m., e.d.t., August 22, 1960, in the North Room, Washington Hotel, Fifteenth Street and Pennsylvania Avenue NW., Washington, D.C., and will be before Hearing Examiner Clifford P. Grant. Interested persons who cannot appear in person may submit data, views, and argument in writing (in quadruplicate) to the Chief Hearing Examiner, United States Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C., not later than August 15, 1960, where they will be kept available for examination during usual business hours by any other interested person.

Except as to those matters noticed above, those noticed in the July 16, 1960, publication as to the nature of the proceedings and the procedure to be followed shall govern.

Signed at Washington, D.C., this second day of August 1960.

JAMES P. MITCHELL,  
Secretary of Labor.

[F.R. Doc. 60-7294; Filed, Aug. 2, 1960; 12:19 p.m.]

# Notices

## DEPARTMENT OF JUSTICE

### Office of Alien Property

#### BAPTIST PARISH (DOOPSGEZINDE GEMEENTE)

#### Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

#### Claimant, Claim No., Property, and Location

The State of the Netherlands for the benefit of:

Baptist Parish (Doopsgezinde Gemeente) Arnhem, The Netherlands; All right, title and interest of the Attorney General acquired pursuant to Vesting Order No. 18521 (16 F.R. 10097, October 3, 1951) in and to the coupons due June 1, 1940 to December 1, 1954 detached from Atchison Topeka & Santa Fe Railway Co. 4/55 Bond No. 32495 in the principal amount of \$1,000.

Vesting Order No. 18521; L.S. Claim No. 274.

Executed at Washington, D.C., on July 27, 1960.

For the Attorney General.

[SEAL] PAUL V. MYRON,  
Deputy Director,  
Office of Alien Property.

[F.R. Doc. 60-7173; Filed, Aug. 2, 1960; 8:45 a.m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### MONTANA

#### Notice of Filing of Plat of Survey

JULY 25, 1960.

1. Plat of survey of the lands described below will be officially filed in the Land Office, Billings, Montana, effective 10:00 a.m., August 29, 1960.

#### MONTANA PRINCIPAL MERIDIAN

T. 1 N., R. 10 W.,  
Secs. 15, 16, 21, 22.

Within the above-described areas are 2480.97 acres of public lands and 79.03 acres of private land.

2. The above-described lands are within the exterior limits of the Beaverhead National Forest and shall be subject to operation of the public land laws relating to National Forests subject to valid existing rights.

3. Because the lands are within National Forest boundaries, they will not be subject to disposition under the gen-

eral public land laws by reason of the official filing of the plat.

4. The lands have been open to applications and offers under the mineral leasing laws and to locations under the mining laws.

5. All inquiries relating to the lands should be addressed to the Manager, Land Office, 1245 North 29th Street, Billings, Montana.

MERLIN J. CHADSEY,  
Acting Manager.

[F.R. Doc. 60-7178; Filed, Aug. 2, 1960; 8:45 a.m.]

#### MONTANA

#### Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

JULY 25, 1960.

1. Pursuant to authority delegated by BLM Order No. 541 dated April 21, 1954 (19 F.R. 2473), as amended, notice is hereby given that the plat of dependent resurvey and survey of accretion accepted March 16, 1960, including lands herein-after described, will be officially filed in the Land Office at Billings, Montana, effective at 10:00 a.m. on August 29, 1960:

#### MONTANA PRINCIPAL MERIDIAN

T. 26 N., R. 59 E.,  
Secs. 5 and 8, Tracts 37, 38, 39.

The area described aggregates 49.17 acres of public land.

2. This plat represents a survey of a portion of the subdivision of Secs. 5 and 8, the 1910 and 1958 meanders and accretion to the residual portions of original lots 10 and 11 of Sec. 5 and NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Sec. 8, designated as Tracts 39, 38 and 37 respectively. Also, a resurvey of the boundaries of Sec. 5 and the South and East Boundary of Sec. 8, designed to restore the corners in their original locations according to the best available evidence.

3. The above-described lands were formed by accretion of the Missouri River and are new lands. They consist of recently deposited, very shallow, sandy, alluvial soils along the Missouri River and support vegetation consisting of cottonwoods, willows, and brush. The lands are not suitable for agricultural development and have very low forage production for grazing purposes.

4. Subject to any existing valid rights and the requirements of applicable law, the lands described in paragraph 1 hereof, are hereby opened to the filing of applications and selections in accordance with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour

and date shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws presented prior to 10 a.m. on August 29, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral leasing laws and to locations under the mining laws.

Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, 1245 North 29th Street, Billings, Montana.

MERLIN J. CHADSEY,  
Acting Manager.

[F.R. Doc. 60-7179; Filed, Aug. 2, 1960; 8:46 a.m.]

[Classification No. 33]

[B-26652]

#### COLORADO

#### Small Tract Classification

1. Pursuant to authority delegated to me by the Colorado State Supervisor, Bureau of Land Management, effective February 19, 1958 (23 F.R. 1098), I hereby classify the following described public lands, totaling 400 acres in Custer County, Colorado, as suitable for disposition under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 USC 682a), as amended:

#### SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 21 S., R. 72 W.,  
Sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
Sec. 30, E $\frac{1}{2}$ SE $\frac{1}{4}$ .

containing 400 acres. This land has not been subdivided into small tracts.

None of this land is covered by applications from persons entitled to preference under 43 CFR 257.5(a).

2. Classification of the above described lands by this order segregates

them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer opening the lands to application or bid.

J. ELLIOTT HALL,  
Lands and Minerals Officer.

JULY 28, 1960.

[F.R. Doc. 60-7193; Filed, Aug. 2, 1960;  
8:48 a.m.]

## DEPARTMENT OF COMMERCE

### Federal Maritime Board

#### STRAITS/NEW YORK CONFERENCE AND STRAITS PACIFIC CONFERENCE

##### Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

(1) Agreement No. 6010-9, between the member lines of the Straits/New York Conference, modifies the basic agreement of that conference (No. 6010, as amended), which covers the trade from Colony of Singapore and Federation of Malaya to Atlantic and Gulf ports of the United States. This modification amends the provisions of the conference agreement with respect to agency commissions.

(2) Agreement No. 7090-6, between the member lines of the Straits/Pacific Conference, modifies the basic agreement of that conference (No. 7090, as amended), which covers the trade from Colony of Singapore and Federation of Malaya to certain ports on the Pacific Coast of United States and Canada and to Honolulu. This modification amends the provisions of the conference agreement with respect to agency commissions.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: July 29, 1960.

By order of the Federal Maritime Board,

JAMES L. PIMPER,  
Secretary.

[F.R. Doc. 60-7184; Filed, Aug. 2, 1960;  
8:46 a.m.]

### Maritime Administration STATES STEAMSHIP CO.

#### Notice of Application

Notice is hereby given that States Steamship Company has filed an application for a waiver under the provisions of section 804 of the Merchant Marine Act, 1936, as amended, to permit the below-described foreign flag activities:

Performance of terminal services by States Steamship Company in San Francisco and Long Beach, California, at States Steamship Company's piers for Scindia Steamship Navigation Co., Ltd., an Indian-flag line operating between India, the Philippines and ports of the Pacific Coast of the United States.

Any person, firm or corporation having an interest in such application and desiring a hearing on issues pertinent to section 804 of the Merchant Marine Act, 1936, as amended, should by close of business on August 15, 1960, notify the Secretary, Maritime Administration, in writing, in triplicate, setting forth the reasons for requesting a hearing, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Administration.

If no request for hearing or petition for leave to intervene is received within the specified time, or if the Maritime Administrator determines that petitions to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Administrator will take such action as may be deemed appropriate.

Dated: July 28, 1960.

By order of the Maritime Administrator,

JAMES L. PIMPER,  
Secretary.

[F.R. Doc. 60-7174; Filed, Aug. 2, 1960;  
8:45 a.m.]

#### Office of the Secretary

### JOHN S. VANDER HEIDE

#### Statement of Changes in Financial Interests.

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months.

- A. Deletions: No change.
- B. Additions: No change.

This statement is made as of July 23, 1960.

Dated: July 23, 1960.

JOHN S. VANDER HEIDE.

[F.R. Doc. 60-7190; Filed, Aug. 2, 1960;  
8:47 a.m.]

## FEDERAL RESERVE SYSTEM

### BAYSTATE CORP.

#### Notice of Receipt of Application Under Bank Holding Company Act

Notice is hereby given that the Board of Governors of the Federal Reserve System has received an application by the Baystate Corporation, Boston, Massachusetts, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), for the Board's prior approval of the acquisition by that Corporation of up to 100 percent of the voting shares of the Manufacturers National Bank of North Attleborough, North Attleborough, Massachusetts.

In determining whether to approve this application the Board is required by said Act to take into consideration the following factors: (1) The financial history and condition of the company and the bank concerned; (2) their prospects; (3) the character of their management; (4) the convenience, needs, and welfare of the communities and the area concerned; and (5) whether or not the effect of such acquisition would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest, and the preservation of competition in the field of banking.

Not later than thirty days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington 25, D.C.

Dated at Washington, D.C., this 28th day of July 1960.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,  
Secretary.

[F.R. Doc. 60-7177; Filed, Aug. 2, 1960;  
8:45 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Mexican List No. 220]

### MEXICAN BROADCAST STATIONS

#### Changes, Proposed Changes, and Corrections in Assignments

JULY 18, 1960.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement. List of changes, proposed changes, and correction in Assignments of Mexican Broadcast Stations Modifying the Appendix containing assignments of Mexican Broadcast Stations (Mimeograph 47214-6) attached to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

[Docket Nos. 13599, 13600; FCC 60M-1316]

**A. S. RIVIERE AND RADIO GEORGIA****Order Continuing Hearing**

In re applications of A. S. Riviere, Barnesville, Georgia, Docket No. 13599, File No. BP-12889; John P. Frew, Elizabeth H. Frew, Stephens B. McGarity and Leslie E. Gradick, Jr., d/b as Radio Georgia, Thomaston, Georgia, Docket No. 13600, File No. BP-13051; for construction permits.

Pursuant to agreements reached at the prehearing conference held July 26, 1960, the evidentiary hearing in the above-entitled proceeding is continued from Tuesday, September 20, 1960, to Wednesday, October 19, 1960.

Released: July 27, 1960.

*It is so ordered*, This the 26th day of July 1960.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] **BEN F. WAPLE,**  
*Acting Secretary.*

[F.R. Doc. 60-7194; Filed, Aug. 2, 1960; 8:48 a.m.]

[Docket No. 13691]

**THEODORE R. WELCH****Order To Show Cause**

In the matter of Theodore R. Welch, Spokane, Washington, Docket No. 13691; order to show cause why there should not be revoked the license for Citizens Radio Station 14W0184.

There being under consideration the revocation of the license of Theodore R. Welch, North 9312 Division, Spokane, Washington, for Citizens Radio Station 14W0184;

It appearing that at various times between March 25, 1960, and April 28, 1960, the respondent repeatedly used and operated apparatus for the transmission of communications or signals by radio without a license in that behalf, in violation of Section 301 of the Communications Act of 1934, as amended; and

It further appearing that at various times between March 25, 1960, and April 28, 1960, the respondent repeatedly operated transmitting apparatus in a radio station for which a station license was required without an operator's license issued to him by the Federal Communications Commission, in violation of Section 318 of the Communications Act of 1934, as amended;

*It is ordered*, This 28th day of July 1960, pursuant to section 312(a) (4) and (c) of the Communications Act of 1934, as amended, and section 0.291(b) (8) of the Commission's Statement of Delegations of Authority, that Theodore R. Welch show cause why the license for Citizens Radio Station 14W0184 should not be revoked, and appear and give evi-

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
XEFI (change in classification of daytime operation).	Chihuahua, Chihuahua.....	580 kilocycles 5 kw D/0.25 kw N..	ND	U	III-D IV-N	Aug. 18, 1960
XEEL (PO: 660 kc 0.25 kw ND D II).	Fresnillo, Zacatecas.....	610 kilocycles 0.25 kw D/0.15 kw N.	ND	U	IV	Jan. 18, 1961
XEOO (correction of error in Change List No. 216).	Tepic, Nayarit.....	620 kilocycles 1 kw D/0.25 kw N..	ND	U	IV	Aug. 18, 1960
XEIO (increase in power-PO: 0.5 kw).	Ciudad Obregon, Sonora.....	810 kilocycles 5 kw.....	ND	D	II	Oct. 18, 1960
XEEV (change in location from Villahermosa, Tabasco).	San Cristobal las Casas, Chiapas.....	870 kilocycles 1kw.....	ND	D	II	Jan. 18, 1961
XEXK (PO: 0.5 kw ND D III).	Ensenada, Baja California.....	980 kilocycles 0.5 kw D/0.2 kw N.	ND	U	III-D IV-N	July 18, 1960
XEMD (change location from Gomez Palacio, Durango, and increase daytime power).	Torreron, Coahuila.....	1 kw D/0.1 kw N..	ND	U	IV	Jan. 18, 1961
XEOP (New).....	Villa Frontera, Coahuila.....	0.25 kw D/0.25 kw N.	ND	U	IV	Jan. 18, 1961
XEYJ (PO: 1300 kc)....	Nueva Rosita, Coahuila.....	860 kilocycles 1 kw D/0.1 kw N..	ND	U	III-D IV-N	Jan. 18, 1961
XEGV (change in location from Nogales, Sonora).	Caborca, Sonora.....	1170 kilocycles 0.25 kw.....	ND	D	II	Jan. 18, 1961
XEQH (New).....	Ixmiquilpan, Hidalgo.....	1270 kilocycles 1 kw D/0.1 kw N..	ND	U	III-D IV-N	Jan. 18, 1961
XEMH (to complete notification appearing in Change List No. 218-PO: 0.5 kw ND U).	Merida, Yucatan.....	1 kw D/0.5 kw N..	ND	U	III-B	Aug. 18, 1960
XEOZ (change in call letters from XEFA).	Jalapa, Veracruz.....	1340 kilocycles 0.25 kw.....	ND	U	IV	July 18, 1960
XEZC (New).....	Concepcion del Oro, Zacatecas.....	1360 kilocycles 0.25 kw.....	ND	U	IV	Jan. 18, 1961
XESP (PO: 1400 kc 1 kw D/0.25 kw N ND).	San Pedro Tlaquepaque, Jalisco.....	1390 kilocycles 1 kw D/0.25 kw N..	ND	U	IV	Jan. 18, 1961
XEZD (change in call letters from XEZO).	Ciudad Camargo, Tamaulipas.....	1400 kilocycles 0.25 kw D/0.1 kw N.	ND	U	IV	July 18, 1960
XEWD (change call letters from XEHD to correct an error appearing in Change List No. 160).	Ciudad Miguel Aleman, Tamaulipas.....	1430 kilocycles 2 kw D/0.150 kw N.	ND	U	III-D IV-N	July 18, 1960
XEOL (change in call letters from XEUJ).	Ciudad del Carmen, Campeche.....	1460 kilocycles 0.25 kw.....	ND	U	IV	July 18, 1960
XEMK (New).....	Huixtla, Chiapas.....	1490 kilocycles 0.5 kw D/0.2 kw N.	ND	U	IV	Jan. 18, 1961
XEUL (change in location from Progreso, Yucatan and decrease night power).	Campeche, Campeche.....	1580 kilocycles 0.25 kw D/0.15 kw N.	ND	U	II	Aug. 18, 1960

FEDERAL COMMUNICATIONS COMMISSION,  
**BEN F. WAPLE,**  
*Acting Secretary.*

[SEAL]

[F.R. Doc. 60-7196; Filed, Aug. 2, 1960; 8:48 a.m.]

dence at a hearing<sup>1</sup> to be held, at a time and place to be specified by subsequent order; and

*It is further ordered*, That the Acting Secretary send a copy of this Order by Certified Mail (Air Mail), Return Receipt Requested to Theodore R. Welch, North 9312 Division, Spokane, Washington.

Released: July 29, 1960.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 60-7195; Filed, Aug. 2, 1960;  
8:48 a.m.]

[Docket No. 13187; FCC 60M-1315]

## WESTERN UNION TELEGRAPH CO.

### Order Continuing Hearing Conference

In the matter of the formula for the distribution by The Western Union Telegraph Company of telegraph traffic destined to points in Canada, Docket No. 13187.

The Hearing Examiner having under consideration a petition filed July 25, 1960, on behalf of the carriers participating in the above-entitled proceeding requesting that the further prehearing conference scheduled for July 27, 1960, be continued to October 14, 1960; and

It appearing that the reason for the requested continuance is the fact that the parties need more time for further meetings and negotiations which may produce a satisfactory solution of the problems involved herein; and

It further appearing that counsel for the Common Carrier Bureau has given his consent to the requested continuance, that the element of time requires the

<sup>1</sup>Section 1.62 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard, shall, in person or by his attorney, file with the Commission, within thirty days of the receipt of the order to show cause, a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. In the event it would not be possible for respondent to appear for hearing in the proceeding if scheduled to be held in Washington, D.C., he should advise the Commission of the reasons for such inability within five days of the receipt of this order. If the licensee fails to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the order to show cause. If such statement contains, with particularity, factual allegations denying or justifying the facts upon which the show cause order is based, the Hearing Examiner may call upon the submitting party to furnish additional information, and shall request all opposing parties to file an answer to the written statement and/or additional information. The record will then be closed and an initial decision issued on the basis of such procedure. Where a hearing is waived and no written statement has been filed within the thirty days of the receipt of the order to show cause, the allegations of fact contained in the order to show cause will be deemed as correct and the sanctions specified in the order to show cause will be invoked.

immediate consideration thereof and good cause for granting the petition having been shown;

*It is ordered*, This the 26th day of July 1960, that the petition for continuance is granted and the further prehearing conference in the above-entitled proceeding now scheduled for July 27, 1960, is continued to October 14, 1960.

Released: July 27, 1960.

FEDERAL COMMUNICATIONS  
COMMISSION,  
[SEAL] BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 60-7197; Filed, Aug. 2, 1960;  
8:48 a.m.]

[FCC 60-970]

## NETWORK PROGRAMMING INQUIRY

### Report and Statement of Policy

JULY 29, 1960.

The Commission en banc, by Commissioners Ford (Chairman), Bartley, Lee, Craven and Cross, with Commissioner Hyde dissenting<sup>1</sup> and Commissioner King not participating, adopted the following statement on July 27:

On October 3, 1957, the Commission's Network Study Staff submitted its report on network broadcasting. While the scope and breadth of the network study as set forth in Order Number 1 issued November 21, 1955 encompassed a comprehensive study of programming, it soon became apparent that due to factors not within the control of the staff or the committee consideration of programming would be subject to substantial delay making it impracticable that the target dates for the overall report could be met in the program area. The principal reasons were: (a) The refusal of certain program distributors and producers to provide the committee's staff with certain information which necessitated protracted negotiations and ultimately legal action (FCC v. Ralph Cohn, et al., 154 F. Supp. 899); and (b) the fact that a coincidental and collateral investigation into certain practices was instituted by the Department of Justice. Accordingly the network study staff report recommended that the study of programming be continued and completed. The Director of the Network Study in his memorandum of transmittal of the Network Study Report stated:

The staff regrets that it was unable to include in the report its findings and conclusions in its study of programming. It is estimated that more than one-fourth of the time of the staff was expended in this area. However, the extended negotiations and litigation with some non-network program producers relative to supplying financial data necessary to this aspect of the study made it impossible to obtain this information from a sufficient number of these program producers to draw definitive conclusions on all the programming issues. Now that the Commission's right to obtain this information has been sustained, it is the hope of the staff that this aspect of the study will be completed and the results included in a supplement to the report. Unless

<sup>1</sup>Dissenting statement of Commissioner Hyde filed as part of original document.

the study of programming is completed, the benefit of much labor on this subject will have been substantially lost.

As a result on February 26, 1959, the Commission issued its "Order for Investigatory Proceeding", Docket No. 12782. That Order stated that during the course of the Network Study and otherwise, the Commission had obtained information and data regarding the acquisition, production, ownership, distribution, sale, licensing, and exhibition of programs for television broadcasting. Also, that that information and data had been augmented from other sources including hearings before Committees of Congress and from the Department of Justice, and that the Commission had determined that an overall inquiry should be made to determine the facts with respect to the television network program selection process. On November 9, 1959, the proceeding instituted by the Commission's Order of February 26, 1959, was amended and enlarged to include a general inquiry with respect to programming to determine, among other things, whether the general standards heretofore laid down by the Commission for the guidance of broadcast licensees in the selection of programs and other material intended for broadcast are currently adequate; whether the Commission should, by the exercise of its rule-making power, set out more detailed and precise standards for such broadcasters; whether the Commission's present review and consideration in the field of programming and advertising are adequate, under present conditions in the broadcast industry; and whether the Commission's authority under the Communications Act of 1934, as amended, is adequate, or whether legislation should be recommended to Congress.

This inquiry was heard by the Commission en banc between December 7, 1959, and February 1, 1960, and consumed 19 days in actual hearings. Over 90 witnesses testified relative to the problems involved, made suggestions and otherwise contributed from their background and experience to the solution of these problems. Several additional statements were submitted. The record in the en banc portion of the inquiry consisted of 3,775 pages of transcript plus 1,000 pages of exhibits. The Interim Report of the staff of the Office of Network Study was submitted to the Commission for consideration on June 15, 1960.

The Commission will make every effort to expedite its consideration of the entire docket proceeding and will take such definitive action as the Commission determines to be warranted. However, the Commission feels that a general statement of policy responsive to the issues in the en banc inquiry is warranted at this time.

Prior to the en banc hearing, the Commission had made its position clear that, in fulfilling its obligation to operate in the public interest, a broadcast station is expected to exercise reasonable care and prudence with respect to its broadcast material in order to assure that no matter is broadcast which will deceive or mislead the public. In view of the

extent of the problem existing with respect to a number of licensees involving such practices as deceptive quiz shows and payola which had become apparent, the Commission concluded that certain proposed amendments to our Rules and as well as proposed legislation would provide a basis for substantial improvements. Accordingly, on February 5, 1960, we adopted a Notice of Proposed Rule Making to deal with fixed quiz and other non-bona fide contest programs involving intellectual skill. These rules would prohibit the broadcasting of such programming unless accompanied by an announcement which would in all cases describe the nature of the program in a manner to sufficiently apprise the audience that the events in question are not in fact spontaneous or actual measures of knowledge or intellectual skill. Announcements would be made at the beginning and end of each program. Moreover, the proposed rules would require a station, if it obtained such a program from networks, to be assured similarly that the network program has an accompanying announcement of this nature. This, we believe, would go a long way toward preventing any recurrence of problems such as those encountered in the recent quiz show programs.

We have also felt that this sort of conduct should be prohibited by statute. Accordingly, we suggested legislation designed to make it a crime for anyone to wilfully and knowingly participate or cause another to participate in or cause to be broadcast a program of intellectual skill or knowledge where the outcome thereof is prearranged or predetermined. Without the above-described amendment, the Commission's regulatory authority is limited to its licensing function. The Commission cannot reach networks directly or advertisers, producers, sponsors, and others who, in one capacity or another, are associated with the presentation of radio and television programs which may deceive the listening or viewing public. It is our view that this proposed legislation will help to assure that every contest of intellectual skill or knowledge that is broadcast will be in fact a bona fide contest. Under this proposal, all those persons responsible in any way for the broadcast of a deceptive program of this type would be penalized. Because of the far reaching effects of radio and television, we believe such sanctions to be desirable.

The Commission proposed on February 5, 1960, that a new section be added to the Commission's rules which would require the licensee of radio broadcast stations to adopt appropriate procedures to prevent the practice of payola amongst his employees. Here again the standard of due diligence would have to be met by the licensee. We have also approved on February 11 the language of proposed legislation which would impose criminal penalties for failure to announce sponsored programs, such as payola and others, involving hidden payments or other considerations. This proposal looks toward amending the United States Code to provide fines up to \$5,000 or imprisonment up to one year, or both,

for violators. It would prohibit the payment to any person or the receipt of payment by any person for the purpose of having as a part of the broadcast program any material on either a radio or television show unless an announcement is made as a part of the program that such material has been paid for or furnished. The Commission now has no direct jurisdiction over the employees of a broadcast station with respect to this type of activity. The imposition of a criminal penalty appears to us to be an effective manner for dealing with this practice. In addition, the Commission has made related legislative proposals with respect to fines, temporary suspension of licenses, and temporary restraining orders.

In view of our mutual interest with the Federal Trade Commission and in order to avoid duplication of effort, we have arrived at an arrangement whereby any information obtained by the FCC which might be of interest to FTC will be called to that Commission's attention by our staff. Similarly, FTC will advise our Commission of any information or data which it acquires in the course of its investigations which might be pertinent to matters under jurisdiction of the FCC. This is an understanding supplemental to earlier liaison arrangements between FCC and FTC.

Certain legislative proposals recently made by the Commission as related to the instant inquiry have been mentioned. It is appropriate now to consider whether the statutory authority of the Commission with respect to programming and program practices is, in other respects, adequate.

In considering the extent of the Commission's authority in the area of programming it is essential first to examine the limitations imposed upon it by the First Amendment to the Constitution and Section 326 of the Communications Act.

The First Amendment to the United States Constitution reads as follows:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Section 326 of the Communications Act of 1934, as amended, provides that:

Nothing in this chapter shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication.

The communication of ideas by means of radio and television is a form of expression entitled to protection against abridgement by the First Amendment to the Constitution. In *United States v. Paramount Pictures*, 334 U.S. 131, 166 (1948) the Supreme Court stated:

We have no doubt that moving pictures, like newspapers and radio are included in the press whose freedom is guaranteed by the First Amendment.

As recently as 1954 in *Superior Films v. Department of Education*, 346 U.S. 587, Justice Douglas in a concurring opinion stated:

Motion pictures are, of course, a different medium of expression than the radio, the stage, the novel or the magazine. But the First Amendment draws no distinction between the various methods of communicating ideas.

Moreover, the free speech protection of the First Amendment is not confined solely to the exposition of ideas nor is it required that the subject matter of the communication be possessed of some value to society. In *Winters v. New York*, 333 U.S. 507, 510 (1948) the Supreme Court reversed a conviction based upon a violation of an ordinance of the City of New York which made it punishable to distribute printed matter devoted to the publication of accounts of criminal deeds and pictures of bloodshed, lust or crime. In this connection the Court said:

We do not accede to appellee's suggestion that the constitutional protection for a free press applies only to the exposition of ideas. The line between the informing and the entertaining is too elusive for the protection of that basic right. \* \* \* Though we can see nothing of any possible value to society in these magazines, they are as much entitled to the protection of free speech as the best of literature.

Notwithstanding the foregoing authorities, the right to the use of the airwaves is conditioned upon the issuance of a license under a statutory scheme established by Congress in the Communications Act in the proper exercise of its power over commerce.<sup>2</sup> The question therefore arises as to whether because of the characteristics peculiar to broadcasting which justifies the government in regulating its operation through a licensing system, there exists the basis for a distinction as regards other media of mass communication with respect to application of the free speech provisions of the First Amendment? In other words, does it follow that because one may not engage in broadcasting without first obtaining a license, the terms thereof may be so framed as to unreasonably abridge the free speech protection of the First Amendment?

We recognize that the broadcasting medium presents problems peculiar to itself which are not necessarily subject to the same rules governing other media of communication. As we stated in our *Petition in Grove Press, Inc. and Readers Subscription, Inc. v. Robert K. Christenberry* (Case No. 25,861) filed in the U.S. Court of Appeals for the Second Circuit, "radio and TV programs enter the home and are readily available not only to the average normal adult but also to children and to the emotionally immature \* \* \* Thus, for example, while a nudist magazine may be within the protection of the First Amendment \* \* \* the televising of nudes might well raise a serious question of programming contrary to 18 U.S.C. 1464 \* \* \* Similarly, regardless of whether the 'four-letter words' and sexual description, set forth in 'Lady

<sup>2</sup> *NBC v. United States*, 319 U.S. 190 (1943).

Chatterley's Lover', (when considered in the context of the whole book) make the book obscene for mailability purposes, the utterance of such words or the depiction of such sexual activity on radio or TV would raise similar public interest and section 1464 questions." Nevertheless it is essential to keep in mind that "the basic principles of freedom of speech and the press like the First Amendment's command do not vary."<sup>3</sup>

Although the Commission must determine whether the total program service of broadcasters is reasonably responsive to the interests and needs of the public they serve, it may not condition the grant, denial or revocation of a broadcast license upon its own subjective determination of what is or is not a good program. To do so would "lay a forbidden burden upon the exercise of liberty protected by the Constitution."<sup>4</sup> The Chairman of the Commission during the course of his testimony recently given before the Senate Independent Offices Subcommittee of the Committee on Appropriations expressed the point as follows:

Mr. Ford. When it comes to questions of taste, unless it is downright profanity or obscenity, I do not think that the Commission has any part in it.

I don't see how we could possibly go out and say this program is good and that program is bad. That would be a direct violation of the law.<sup>5</sup>

In a similar vein Mr. Whitney North Seymour, President-elect of the American Bar Association, stated during the course of this proceeding that while the Commission may inquire of licensees what they have done to determine the needs of the community they propose to serve, the Commission may not impose upon them its private notions of what the public ought to hear.<sup>6</sup>

Nevertheless, several witnesses in this proceeding have advanced persuasive arguments urging us to require licensees to present specific types of programs on the theory that such action would enhance freedom of expression rather than tend to abridge it. With respect to this proposition we are constrained to point out that the First Amendment forbids governmental interference asserted in aid of free speech, as well as governmental action repressive of it. The protection against abridgement of freedom of speech and press flatly forbids governmental interference, benign or otherwise. The First Amendment "while regarding freedom in religion, in speech and printing and in assembling and petitioning the government for redress of grievances is fundamental and precious to all, seeks only to forbid that Congress should meddle therein." (Powe v. United States, 109 F. 2d 147.)

As recently as 1959 in *Farmers Educational and Cooperative Union of America v. WDAY, Inc.*, 360 U.S. 525, the Supreme Court succinctly stated:

\* \* \* expressly applying this country's tradition of free expression to the field of radio broadcasting, Congress has from the first emphatically forbidden the Commission to exercise any power of censorship over radio communication.

An examination of the foregoing authorities serves to explain why the day-to-day operation of a broadcast station is primarily the responsibility of the individual station licensee. Indeed, Congress provided in section 3(h) of the Communications Act that a person engaged in radio broadcasting shall not be deemed a common carrier. Hence, the Commission in administering the Act and the courts in interpreting it have consistently maintained that responsibility for the selection and presentation of broadcast material ultimately devolves upon the individual station licensee, and that the fulfillment of the public interest requires the free exercise of his independent judgment. Accordingly, the Communications Act "does not essay to regulate the business of the licensee. The Commission is given no supervisory control over programs, of business management or of policy" \* \* \* The Congress intended to leave competition in the business of broadcasting where it found it \* \* \* The regulatory responsibility of the Commission in the broadcast field essentially involves the maintenance of a balance between the preservation of a free competitive broadcast system, on the one hand, and the reasonable restriction of that freedom inherent in the public interest standard provided in the Communications Act, on the other.

In addition, there appears a second problem quite unrelated to the question of censorship that would enter into the Commission's assumption of supervision over program content. The Commission's role as a practical matter, let alone a legal matter, cannot be one of program dictation or program supervision. In this connection we think the words of Justice Douglas are particularly appropriate.

The music selected by one bureaucrat may be as offensive to some as it is soothing to others. The news commentator chosen to report on the events of the day may give overtones to the news that pleases the bureaucrat but which rile the \* \* \* audience. The political philosophy which one radio sponsor exudes may be thought by the official who makes up the programs as the best for the welfare of the people. But the man who listens to it \* \* \* may think it marks the destruction of the Republic \* \* \* Today it is a business enterprise working out a radio program under the auspices of Government. Tomorrow it may be a dominant, political or religious group. \* \* \* Once a man is forced to submit to one type of program, he can be forced to submit to another.

It may be but a short step from a cultural program to a political program \* \* \* The strength of our system is in the dignity, resourcefulness and the intelligence of our people. Our confidence is in their ability to

make the wisest choice. That system cannot flourish if regimentation takes hold.<sup>8</sup>

Having discussed the limitations upon the Commission in the consideration of programming, there remains for discussion the exceptions to those limitations and the area of affirmative responsibility which the Commission may appropriately exercise under its statutory obligation to find that the public interest, convenience and necessity will be served by the granting of a license to broadcast.

In view of the fact that a broadcaster is required to program his station in the public interest, convenience and necessity, it follows despite the limitations of the First Amendment and section 326 of the Act, that his freedom to program is not absolute. The Commission does not conceive that it is barred by the Constitution or by statute from exercising any responsibility with respect to programming. It does conceive that the manner or extent of the exercise of such responsibility can introduce constitutional or statutory questions. It readily concedes that it is precluded from examining a program for taste or content, unless the recognized exceptions to censorship apply: for example, obscenity, profanity, indecency, programs inciting to riots, programs designed or inducing toward the commission of crime, lotteries, etc. These exceptions, in part, are written into the United States Code and, in part, are recognized in judicial decision. See Sections 1304, 1343, and 1464 of Title 18 of the United States Code (lotteries; fraud by radio; utterance of obscene, indecent or profane language by radio). It must be added that such traditional or legislative exceptions to a strict application of the freedom of speech requirements of the United States Constitution may very well also convey wider scope in judicial interpretation as applied to licensed radio than they have had or would have as applied to other communications media. The Commission's petition in the *Grove* case, supra, urged the court not unnecessarily to refer to broadcasting, in its opinion, as had the District Court. Such reference subsequently was not made though it must be pointed out there is no evidence that the motion made by the FCC was a contributing factor. It must nonetheless be observed that this Commission conscientiously believes that it should make no policy or take any action which would violate the letter or the spirit of the censorship prohibitions of Section 326 of the Communications Act.

As stated by the Supreme Court of the United States in *Joseph Burstyn, Inc. v. Wilson*, supra:

\* \* \* Nor does it follow that motion pictures are necessarily subject to the precise rule governing any other particular method of expression. Each method tends to present its own peculiar problem. But the basic principles of freedom of speech and the press, like the First Amendment's command, do not vary. Those principles, as they have frequently been enunciated by this Court, make freedom of expression the rule.

A review of the Communications Act as a whole clearly reveals that the found-

<sup>3</sup> *Burstyn v. Wilson*, 343 U.S. 495, 50 (1952).

<sup>4</sup> *Cantwell v. Connecticut*, 310 U.S. 926, 307.

<sup>5</sup> Hearings before the Subcommittee of the Committee on Appropriations, United States Senate, 86th Congress, 2d session, on H.R. 11776 at page 775.

<sup>6</sup> Memorandum of Mr. Whitney North Seymour, Special Counsel to the National Association of Broadcasters at page 7.

<sup>7</sup> *FCC v. Sanders Brothers*, 309 U.S. 470 (1940).

<sup>8</sup> *Public Utilities Commission v. Pollak*, 343 U.S. 451, 468, Dissenting Opinion.

dation of the Commission's authority rests upon the public interest, convenience and necessity.<sup>9</sup> The Commission may not grant, modify or renew a broadcast station license without finding that the operation of such station is in the public interest. Thus, faithful discharge of its statutory responsibilities is absolutely necessary in connection with the implacable requirement that the Commission approve no such application for license unless it finds that "public interest, convenience, and necessity would be served". While the public interest standard does not provide a blueprint of all of the situations to which it may apply, it does contain a sufficiently precise definition of authority so as to enable the Commission to properly deal with the many and varied occasions which may give rise to its application. A significant element of the public interest is the broadcaster's service to the community. In the case of *NBC v. United States*, 319 U.S. 190, the Supreme Court described this aspect of the public interest as follows:

An important element of public interest and convenience affecting the issue of a license is the ability of the licensee to render the best practicable service to the community reached by broadcasts \* \* \* The Commission's licensing function cannot be discharged, therefore, merely by finding that there are no technological objections to the granting of a license. If the criterion of "public interest" were limited to such matters, how could the Commission choose between two applicants for the same facilities, each of whom is financially and technically qualified to operate a station? Since the very inception of federal regulation by radio, comparative considerations as to the services to be rendered have governed the application of the standard of "public interest, convenience, or necessity."

Moreover, apart from this broad standard which we will further discuss in a moment, there are certain other statutory indications.

It is generally recognized that programming is of the essence of radio service. Section 307(b) of the Communications Act requires the Commission to "make such distribution of licenses \* \* \* among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same". Under this section the Commission has consistently licensed stations with the end objective of either providing new or additional programming service to a community, area or state, or of providing a new or additional "outlet" for broadcasting from a community, area, or state. Implicit in the former alternative is increased radio reception; implicit in the latter alternative is increased radio transmission and, in this connection, appropriate attention to local live programming is required.

Formerly by reason of administrative policy, and since September 14, 1959, by necessary implication from the amended language of section 315 of the Communications Act, the Commission has had the responsibility for determining whether licensees "afford reasonable opportunity for the discussion of conflicting views on

issues of public importance". This responsibility usually is of the generic kind and thus, in the absence of unusual circumstances, is not exercised with regard to particular situations but rather in terms of operating policies of stations as viewed over a reasonable period of time. This, in the past, has meant a review, usually in terms of filed complaints, in connection with the applications made each three year period for renewal of station licenses. However, that has been a practice largely traceable to workload necessities, and therefore not so limited by law. Indeed the Commission recently has expressed its views to the Congress that it would be desirable to exercise a greater discretion with respect to the length of licensing periods within the maximum three year license period provided by section 307(d). It has also initiated rulemaking to this end.

The foundation of the American system of broadcasting was laid in the Radio Act of 1927 when Congress placed the basic responsibility for all matter broadcast to the public at the grass roots level in the hands of the station licensee. That obligation was carried forward into the Communications Act of 1934 and remains unaltered and undivided. The licensee, is, in effect, a "trustee" in the sense that his license to operate his station imposes upon him a non-delegable duty to serve the public interest in the community he had chosen to represent as a broadcaster.

Great confidence and trust are placed in the citizens who have qualified as broadcasters. The primary duty and privilege to select the material to be broadcast to his audience and the operation of his component of this powerful medium of communication is left in his hands. As was stated by the Chairman in behalf of this Commission in recent testimony before a Congressional Committee.<sup>10</sup>

Thus far Congress has not imposed by law an affirmative programming requirement on broadcast licenses. Rather, it has heretofore given licensees a broad discretion in the selection of programs. In recognition of this principle, Congress provided in section 3(h) of the Communications Act that a person engaged in radio broadcasting shall not be deemed a common carrier. To this end the Commission in administering the Act and the courts in interpreting it have consistently maintained that responsibility for the selection and presentation of broadcast material ultimately devolves upon the individual station licensee, and that the fulfillment of such responsibility requires the free exercise of his independent judgment.

As indicated by former President Hoover, then Secretary of Commerce, in the Radio Conference of 1922-25:

The dominant element for consideration in the radio field is, and always will be, the great body of the listening public, millions in number, country wide in distribution. There is no proper line of conflict between the broadcaster and listener, nor would I attempt to array one against the other. Their

interests are mutual, for without the one the other could not exist.

There have been few developments in industrial history to equal the speed and efficiency with which genius and capital have joined to meet radio needs. The great majority of station owners today recognize the burden of service and gladly assume it. Whatever other motive may exist for broadcasting, the pleasing of the listener is always the primary purpose \* \* \*

The greatest public interest must be the deciding factor. I presume that few will dissent as to the correctness of this principle, for all will agree that public good must ever balance private desire; but its acceptance leads to important and far-reaching practical effects, as to which there may not be the same unanimity, but from which, nevertheless, there is no logical escape.

The confines of the licensee's duty are set by the general standard "the public interest, convenience or necessity."<sup>11</sup> The initial and principal execution of that standard, in terms of the area he is licensed to serve, is the obligation of the licensee. The principal ingredient of such obligation consists of a diligent, positive and continuing effort by the licensee to discover and fulfill the tastes, needs and desires of his service area. If he has accomplished this, he has met his public responsibility. It is the duty of the Commission, in the first instance, to select persons as licensees who meet the qualifications laid down in the Act, and on a continuing basis to review the operations of such licensees from time to time to provide reasonable assurance to the public that the broadcast service it receives is such as its direct and justifiable interest requires.

Historically it is interesting to note that in its review of station performance the Federal Radio Commission sought to extract the general principles of broadcast service which should (1) guide the licensee in his determination of the public interest and (2) be employed by the Commission as an "index" or general frame of reference in evaluating the licensee's discharge of his public duty. The Commission attempted no precise definition of the components of the public interest but left the discernment of its limit to the practical operation of broadcast regulation. It required existing stations to report the types of service which had been provided and called on the public to express its views and preferences as to programs and other broadcast services. It sought information from as many sources as were available in its quest of a fair and equitable basis for the selection of those who might wish to become licensees and the supervision of those who already engaged in broadcasting.

The spirit in which the Radio Commission approached its unprecedented task was to seek to chart a course between the need of arriving at a workable concept of the public interest in station operation, on the one hand, and the prohibition laid on it by the First Amendment to the Constitution of the United States and by Congress in section 29 of the Federal Radio Act against censorship and interference with free speech,

<sup>9</sup> Section 307(d), 308, 309, inter alia.

<sup>10</sup> Testimony of Frederick W. Ford, May 16, 1960, before the Subcommittee on Communications of the Committee on Interstate & Foreign Commerce, United States Senate.

<sup>11</sup> Cf. Communications Act of 1934, as amended, inter alia, secs. 307, 309.

on the other. The Standards or guidelines which evolved from that process, in their essentials, were adopted by the Federal Communications Commission and have remained as the basis for evaluation of broadcast service. They have in the main, been incorporated into various codes and manuals of network and station operation.

It is emphasized, that these standards or guidelines should in no sense constitute a rigid mold for station performance, nor should they be considered as a Commission formula for broadcast service in the public interest. Rather, they should be considered as indicia of the types and areas of service which, on the basis of experience, have usually been accepted by the broadcasters as more or less included in the practical definition of community needs and interests.

Broadcasting licensees must assume responsibility for all material which is broadcast through their facilities. This includes all programs and advertising material which they present to the public. With respect to advertising material the licensee has the additional responsibility to take all reasonable measures to eliminate any false, misleading, or deceptive matter and to avoid abuses with respect to the total amount of time devoted to advertising continuity as well as the frequency with which regular programs are interrupted for advertising messages. This duty is personal to the licensee and may not be delegated. He is obligated to bring his positive responsibility affirmatively to bear upon all who have a hand in providing broadcast matter for transmission through his facilities so as to assure the discharge of his duty to provide acceptable program schedule consonant with operating in the public interest in his community. The broadcaster is obligated to make a positive, diligent and continuing effort, in good faith, to determine the tastes, needs and desires of the public in his community and to provide programming to meet those needs and interests. This again, is a duty personal to the licensee and may not be avoided by delegation of the responsibility to others.

Although the individual station licensee continues to bear legal responsibility for all matter broadcast over his facilities, the structure of broadcasting, as developed in practical operation, is such—especially in television—that, in reality, the station licensee has little part in the creation, production, selection, and control of network program offerings. Licensees place "practical reliance" on networks for the selection and supervision of network programs which, of course, are the principal broadcast fare of the vast majority of television stations throughout the country.<sup>12</sup>

In the fulfillment of his obligation the broadcaster should consider the tastes, needs and desires of the public he is licensed to serve in developing his pro-

gramming and should exercise conscientious efforts not only to ascertain them but also to carry them out as well as he reasonably can. He should reasonably attempt to meet all such needs and interests on an equitable basis. Particular areas of interest and types of appropriate service may, of course, differ from community to community, and from time to time. However, the Commission does expect its broadcast licensees to take the necessary steps to inform themselves of the real needs and interests of the areas they serve and to provide programming which in fact constitutes a diligent effort, in good faith, to provide for those needs and interests.

The major elements usually necessary to meet the public interest, needs and desires of the community in which the station is located as developed by the industry, and recognized by the Commission, have included: (1) Opportunity for Local Self-Expression, (2) The Development and Use of Local Talent, (3) Programs for Children, (4) Religious Programs, (5) Educational Programs, (6) Public Affairs Programs, (7) Editorialization by Licensees, (8) Political Broadcasts, (9) Agricultural Programs, (10) News Programs, (11) Weather and Market Reports, (12) Sports Programs, (13) Service to Minority Groups, (14) Entertainment Programming.

The elements set out above are neither all-embracing nor constant. We re-emphasize that they do not serve and have never been intended as a rigid mold or fixed formula for station operation. The ascertainment of the needed elements of the broadcast matter to be provided by a particular licensee for the audience he is obligated to serve remains primarily the function of the licensee. His honest and prudent judgments will be accorded great weight by the Commission. Indeed, any other course would tend to substitute the judgment of the Commission for that of the licensee.

The programs provided first by "chains" of stations and then by networks has always been recognized by this Commission as of great value to the station licensee in providing a well-rounded community service. The importance of network programs need not be reemphasized as they have constituted an integral part of the well-rounded program service provided by the broadcast business in most communities.

Our own observations and the testimony in this inquiry have persuaded us that there is no public interest basis for distinguishing between sustaining and commercially sponsored programs in evaluating station performance. However, this does not relieve the station from responsibility for retaining the flexibility to accommodate public needs.

Sponsorship of public affairs, and other similar programs, may very well encourage broadcasters to greater efforts in these vital areas. This is borne out by statements made in this proceeding in which it was pointed out that under modern conditions sponsorship fosters rather than diminishes the availability of important public affairs and "cultural" broadcast programming. There is some convincing evidence, for instance, that at the network level there is a direct rela-

tion between commercial sponsorship and "clearance" of public affairs and other "cultural" programs. Agency executives have testified that there is unused advertising support for public affairs type programming. The networks and some stations have scheduled these types of programs during "prime time."

The Communications Act<sup>13</sup> provides that the Commission may grant construction permits and station licenses, or modifications or renewals thereof, "only upon written application" setting forth the information required by the Act and the Commission's rule and regulations. If, upon examination of any such application, the Commission shall find the public interest, convenience, and necessity would be served by the granting thereof, it shall grant said application. If it does not so find, it shall so advise the applicant and other known parties in interest of all objections to the application and the applicant shall then be given an opportunity to supply additional information. If the Commission cannot then make the necessary finding, the application is designated for hearing and the applicant bears the burden of providing proof of the public interest.

During our hearings there seemed to be some misunderstanding as to the nature and use of the "statistical" data regarding programming and advertising required by our application forms. We wish to stress that no one may be summarily judged as to the service he has performed on the basis of the information contained in his application. As we said long ago:

It should be emphasized that the statistical data before the Commission constitute an index only of the manner of operation of the stations and are not considered by the Commission as conclusive of the over-all operation of the stations in question.

Licensees will have an opportunity to show the nature of their program service and to introduce other relevant evidence which would demonstrate that in actual operation the program service of the station is, in fact, a well rounded program service and is in conformity with the promises and representations previously made in prior applications to the Commission.<sup>14</sup>

As we have said above, the principal ingredient of the licensee's obligation to operate his station in the public interest is the diligent, positive, and continuing effort by the licensee to discover and fulfill the tastes, needs, and desires of his community or service area, for broadcast service.

To enable the Commission in its licensing functions to make the necessary public interest finding, we intend to revise PART IV of our application forms to require a statement by the applicant, whether for new facilities, renewal or modification, as to: (1) The measures he has taken and the effort he has made to determine the tastes, needs and desires of his community or service area, and (2) the manner in which he proposes to meet those needs and desires.

<sup>12</sup> Section 308(a).

<sup>14</sup> Public Notice (98501), Sept. 20, 1946, "Status of Standard Broadcast Applications".

<sup>13</sup> The Commission, in recognition of this problem as it affects the licensees, has recently recommended to the Congress enactment of legislation providing for direct regulation of networks in certain respects.

Thus we do not intend to guide the licensee along the path of programming; on the contrary the licensee must find his own path with the guidance of those whom his signal is to serve. We will thus steer clear of the bans of censorship without disregarding the public's vital interest. What we propose will not be served by pre-planned program format submissions accompanied by complimentary references from local citizens. What we propose is documented program submissions prepared as the result of assiduous planning and consultation covering two main areas: first, a canvass of the listening public who will receive the signal and who constitute a definite public interest figure; second, consultation with leaders in community life—public officials, educators, religious, the entertainment media, agriculture, business, labor—professional and eleemosynary organizations, and others who bespeak the interests which make up the community.

By the care spent in obtaining and reflecting the views thus obtained, which clearly cannot be accepted without attention to the business judgment of the licensee if his station is to be an operating success, will the standard of programming in the public interest be best fulfilled. This would not ordinarily be the case if program formats have been decided upon by the licensee before he undertakes his planning and consultation, for the result would show little stimulation on the part of the two local groups above referenced. And it is the composite of their contributive planning, led and sifted by the expert judgment of the licensee, which will assure to the station the appropriate attention to the public interest which will permit the Commission to find that a license may issue. By his narrative development, in his application, of the planning, consulting, shaping, revising, creating, discarding and evaluation of programming thus conceived or discussed, the licensee discharges the public interest facet of his business calling without Government dictation or supervision and permits the Commission to discharge its responsibility to the public without invasion of spheres of freedom properly denied to it. By the practicality and specificity of his narrative the licensee facilitates the application of expert judgment by the Commission. Thus, if a particular kind of educational program could not be feasibly assisted (by funds or service) by educators for more than a few time periods, it would be idle for program composition to place it in weekly focus. Private ingenuity and educational interest should look further, toward implemental suggestions of practical yet constructive value! The broadcaster's license is not intended to convert his business into "an instrumentality of the federal government;"<sup>35</sup> neither, on the other hand, may he ignore the public interest which his application for a license should thus define and his operations thereafter reasonably observe.

<sup>35</sup> "The defendant is not an instrumentality of the federal government but a privately owned corporation." *McIntire v. Wm. Penn Broadcasting Co.*, 151 F. 2d 597, 600.

Numbers of suggestions were made during the en banc hearings concerning possible uses by the Commission of codes of broadcast practices adopted by segments of the industry as part of a process of self-regulation. While the Commission has not endorsed any specific code of broadcast practices, we consider the efforts of the industry to maintain high standards of conduct to be highly commendable and urge that the industry persevere in these efforts.

The Commission recognizes that submissions, by applicants, concerning their past and future programming policies and performance provide one important basis for deciding whether—insofar as broadcast services are concerned—we may properly make the public interest finding requisite to the grant of an application for a standard FM or television broadcast station. The particular manner in which applicants are required to depict their proposed or past broadcast policies and services (including the broadcasting of commercial announcements) may therefore, have significant bearing upon the Commission's ability to discharge its statutory duties in the matter. Conscious of the importance of reporting requirements, the Commission on November 24, 1958 initiated proceedings (Docket No. 12673) to consider revisions to the rules prescribing the form and content of reports on broadcast programming.

Aided by numerous helpful suggestions offered by witnesses in the recent en banc hearings on broadcast programming, the Commission is at present engaged in a thorough study of this subject. Upon completion of that study we will announce, for comment by all interested parties, such further revisions to the present reporting requirements as we think will best conduce to an awareness, by broadcasters, of their responsibilities to the public and to effective, efficient processing, by the Commission, of applications for broadcast licenses and renewals.

To this end, we will initiate further rule making on the subject at the earliest practicable date.

Adopted: July 27, 1960.

[SEAL]

BEN F. WAPLE,  
Acting Secretary.

[F.R. Doc. 60-7198; Filed, Aug. 2, 1960;  
8:48 a.m.]

## FEDERAL POWER COMMISSION

[Docket No. IT-5026]

### SERVICIOS ELECTRICOS DE PIEDRAS NEGRAS, S.A. AND CENTRAL POWER AND LIGHT CO.

#### Notice of Application

JULY 27, 1960.

Take notice that on June 27, 1960, Servicios Electricos de Piedras Negras, S.A., of Piedras Negras, Coahuila, Mexico, and Central Power and Light Company, of Corpus Christi, Texas, filed a joint

application for authorization, pursuant to section 202(e) of the Federal Power Act, to transmit electric energy from the United States to Mexico in an amount of not to exceed 45,000,000 kwh per year at a maximum transmission rate of 7,500 kw. By order issued October 23, 1956, Applicants were authorized to transmit up to 27,000,000 kwh of electric energy per year at a maximum transmission rate of 5,000 kw. The present application states that the latter amount of energy is not sufficient to meet the current needs of customers in the City of Piedras Negras, Coahuila, Mexico, and vicinity.

Any person desiring to be heard or make any protest with reference to said application should, on or before the 16th day of August, 1960, file with the Federal Power Commission, Washington 25, D.C., a petition or protest in accordance with the Commission's rules of practice and procedure. This application is on file and available for public inspection.

MICHAEL J. FARRELL,  
Acting Secretary.

[F.R. Doc. 60-7175; Filed, Aug. 2, 1960;  
8:45 a.m.]

[Docket No. G-2345]

### TEXAS GAS TRANSMISSION CORP.

#### Notice Fixing Date of Hearing

JULY 27, 1960.

By order issued December 30, 1953, in this proceeding the Commission questioned charges to the plant accounts of Texas Gas Transmission Corporation (Texas Gas) totaling \$634,487.36 reflecting portions of capitalization of interest during construction and cost to Texas Gas of steel plates acquired from Pittsburgh Coke and Chemical Company in connection with the construction of company facilities authorized by the Commission in a certificate of public convenience and necessity issued March 30, 1949, in Docket No. G-859, et al. The order required Texas Gas to show cause why it should not, by appropriate accounting entries, reduce its plant accounts by the above amount of \$634,487.36 and directed that a public hearing be held with respect to the issues involved in this proceeding at a date and time to be thereafter fixed. On January 29, 1954, Texas Gas filed a memorandum in support of its accounting entries in compliance with the above order.

Pursuant to the authority contained in the Natural Gas Act, particularly sections 6 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), the public hearing directed to be held in this proceeding in the above-mentioned December 30, 1953 order will be held on October 24, 1960, at 10:00 a.m. e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington 25, D.C.

MICHAEL J. FARRELL,  
Acting Secretary.

[F.R. Doc. 60-7176; Filed, Aug. 2, 1960;  
8:45 a.m.]

# INTERSTATE COMMERCE COMMISSION

[Notice 132]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 29, 1960.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with service at no intermediate points have been filed with the Interstate Commerce Commission, under the Commission's deviation rules revised, 1957 (49 CFR 211.1(c) (8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d) (4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successfully filed letter-notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

### MOTOR CARRIERS OF PROPERTY

No. MC-2202 (Deviation No. 10), ROADWAY EXPRESS INC., 147 Park Street, Akron 9, Ohio, filed July 11, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Painesville, Ohio, over Ohio Highway 44 to its junction with Interstate Highway 90, thence over Interstate Highway 90 to the Pennsylvania-New York State line and the junction of Interstate Highway 90 and U.S. Highway 20, and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Buffalo, N.Y., and Painesville, Ohio, over U.S. Highway 20.

No. MC-8902 (Deviation No. 3), THE WESTERN EXPRESS COMPANY, 1277 East 40th Street, Cleveland 14, Ohio, filed July 5, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Buffalo, N.Y., over Interstate Highway 90 (New York Thruway, Pennsylvania Thruway, Ohio-North-South Freeway) to junction Euclid Spur, thence via Euclid Spur to junction Ohio Highway 2, thence over Ohio Highway 2 to Cleveland, Ohio, and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: From Cleveland over Ohio Highway 85 (now U.S. Highway 6)

to junction Ohio Highway 91, thence over Ohio Highway 91 to junction Ohio Highway 84, thence over Ohio Highway 84 to Madison, Ohio, thence over Ohio Highway 166 to junction Ohio Highway 307, thence over Ohio Highway 307 to Austinburg, Ohio, thence over Ohio Highway 45 to Munson Hill, Ohio, thence over unnumbered highway to Ashtabula, Ohio, thence over Ohio Highway 84 to Kingsville, Ohio, thence over Ohio Highway 90 to North Kingsville, Ohio, thence over U.S. Highway 20 via Erie, Pa., to Alden, N.Y.; from junction U.S. Highway 20 and 62 near Big Tree, N.Y., over U.S. Highway 62 to Niagara Falls, N.Y.; from Cleveland to Erie as specified above, thence over Pennsylvania Highway 5 to the Pennsylvania-New York State line, thence over New York Highway 5 to junction U.S. Highway 20; from Cleveland over U.S. Highway 20 to North Kingsville, Ohio; and from Cleveland over Ohio Highway 2 to Willoughby, and return over the same routes.

No. MC-69116 (Deviation Notice No. 7), SPECTOR FREIGHT SYSTEM, INC., 3100 South Wolcott Avenue, Chicago 8, Ill., filed July 15, 1960. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: Between the New York-Pennsylvania State line (near Ripley, N.Y.) and Cleveland, Ohio, from the New York-Pennsylvania State line (New York Thruway Interchange No. 61) over Interstate Highway 90 (Erie, Pennsylvania Thruway and Ohio North-South Freeway) to Cleveland and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Cleveland over U.S. Highway 20 via Ashtabula and Conneaut to Ripley, N.Y.; (2) from Cleveland over Ohio Highway 84 to its junction with U.S. Highway 20.

By the Commission.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 60-7185; Filed, Aug. 2, 1960;  
8:46 a.m.]

[Notice 335]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 29, 1960.

The following publications are governed by the Interstate Commerce Commission's general rules of practice including special rules (49 CFR 1.241) governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209 and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings and pre-hearing conferences will be called at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time), unless otherwise specified.

## APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

### MOTOR CARRIERS OF PROPERTY

No. MC 10872 (Sub No. 31), filed June 20, 1960. Applicant: BE-MAC TRANSPORT COMPANY, INC., 7400 N. Broadway, St. Louis, Mo., Applicant's attorney: Charles M. M. Shepherd, 20 South Central Avenue, Clayton (St. Louis) 5, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives; household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) Between Clinton, Okla., and Hobart, Okla.: from Clinton over U.S. Highway 183 to junction Oklahoma Highway 9, thence over Oklahoma Highway 9 to Hobart, with no service authorized to or from intermediate points or Clinton. (2) Between Oklahoma City, Okla., and Altus, Okla.: from Oklahoma City over U.S. Highway 277 to Chickasha, Okla., thence over U.S. Highway 81 to Waurika, Okla., thence over Oklahoma Highway 5 to Frederick, Okla., thence over U.S. Highway 183 to Snyder, Okla., and thence over U.S. Highway 62 to Altus, with service authorized to and from the intermediate points of Chickasha, Duncan, Temple, Walters, and Frederick, Okla. (3) Between Chickasha, Okla., and Lawton, Okla.: from Chickasha over U.S. Highway 277 to Lawton, with no service authorized to or from intermediate points. (4) Between Joplin, Mo., and Davis, Okla.: from Joplin over Missouri Highway 43 to Seneca, Mo., thence over U.S. Highway 60 to junction U.S. Highway 69, thence over U.S. Highway 69 to McAlester, Okla., thence over U.S. Highway 270 to Calvin, Okla., thence over Oklahoma Highway 12 to Scullen, Okla., and thence over Oklahoma Highway 7 to Davis, with service authorized to and from the intermediate points of Muskogee, McAlester, and Ada, Okla. (5) Between Muskogee, Okla., and Webbers Falls, Okla.: from Muskogee over U.S. Highway 64 to Webbers Falls, with no service authorized to or from intermediate points. (6) Between Sapulpa, Okla., and Oklahoma City, Okla.: from Sapulpa over U.S. Highway 75 to Henryetta, Okla., thence over U.S. Highway 62 to Meeker, Okla., thence over Oklahoma Highway 18 to Shawnee, Okla., thence over U.S. Highway 270 to Oklahoma City, with service authorized to and from the intermediate points of Okmulgee and Shawnee, Okla. (7) Between Oklahoma City, Okla., and Ardmore, Okla.: from Oklahoma City over U.S. Highway 77 to Ardmore, with service authorized to and from the intermediate points of Pauls Valley and Davis, Okla. (8) Between Pauls Valley, Okla., and Lindsay, Okla.: from Pauls Valley over Oklahoma Highway 19 to Lindsay, with no service authorized to or from intermediate points. (9) Between Pharoah, Okla., and Calvin, Okla., as an alternate route for operating convenience only in connection with carrier's regular route operations, serving no intermediate points: from Pharoah over

U.S. Highway 75 to Calvin, and return over the same route. Return over these routes to the above-specified origin points.

**NOTE:** It is noted that the applicant herein presently has the authority to operate over exactly the same routes, serving exactly the same points and intermediate points all as are herein before set forth except that the applicant is as to all such routes and points restricted to "in truckload shipments". The purpose of this application is solely to remove the restriction "in truckload shipments", which now appears in its Certificate of Public Convenience and Necessity No. 10872 and subs thereunder, to the end that a complete common carrier service may henceforth be performed by the applicant and received by the shipping public. No other change or modification of the applicant's present certificate is sought or desired hereunder.

**HEARING:** September 14, 1960, at the Missouri Hotel, Jefferson City, Mo., before Joint Board No. 254.

No. MC 67916 (Sub Nos. 3, 9, 13, and 14) (CLARIFICATION) (PETITION), filed June 9, 1960, published in the FEDERAL REGISTER, issue of July 27, 1960. Petitioner: THE NEW YORK CENTRAL RAILROAD COMPANY, 466 Lexington Avenue, New York 17, N.Y. Petitioner's attorneys: Robert D. Brooks and Kenneth H. Lundmark (same address as Petitioner). The purpose of this republication is to advise that the petition noticed in the FEDERAL REGISTER on July 27, 1960, at page 7118, is assigned for Pre-Hearing Conference at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time, if that time is observed), on the same date and at the hotel named in the previous notice, before the same Examiner. The only purpose of this notice is to designate the *hour of assignment* as shown above.

No. MC 92983 (Sub No. 381), filed July 18, 1960. Applicant: ELDON MILLER, INC., 330 East Washington, Iowa City, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids and chemicals*, in bulk, from points in Minnesota, Montana, and Nevada, to Kansas City, Mo.

**HEARING:** September 27, 1960, at the New Hotel Pickwick, Kansas City, Mo., before Examiner Parks M. Low.

No. MC 101126 (Sub No. 136), filed July 14, 1960. Applicant: STILLPASS TRANSIT COMPANY, INC., 4967 Spring Grove Avenue, Cincinnati 32, Ohio. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities*, in bulk, in hopper type or tank vehicles, and *rejected shipments*, between points in the Cincinnati, Ohio, Commercial Zone as defined by the Interstate Commerce Commission, on the one hand, and, on the other, points in Indiana and Kentucky.

**NOTE:** A proceeding has been instituted under section 212(c) of the Interstate Commerce Act to determine whether applicant's status is that of a contract or common carrier in No. MC 101126 (Sub No. 86).

**HEARING:** September 16, 1960, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 208.

No. MC 105269 (Sub No. 30), filed July 5, 1960. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Avenue, Kalamazoo, Mich. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, and paper mill products*, from Watervliet, Mich., to Louisville, Ky., St. Louis, Mo., and Davenport, Iowa, and points in Indiana, Illinois, and Ohio, and (2) *Paper mill materials and supplies*, from Louisville, Ky., St. Louis, Mo., and Davenport, Iowa, and points in Ohio, Indiana, and Illinois, to Watervliet, Mich.

**NOTE:** Applicant is presently authorized to transport the aforesaid commodities between Watervliet, Mich., and the destination territory, via Kalamazoo, Mich. The purpose of this application is to eliminate the Kalamazoo, Mich., gateway.

**HEARING:** September 23, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Francis A. Welch.

No. MC 109584 (Sub No. 81), filed July 12, 1960. Applicant: ARIZONA PACIFIC TANK LINES, 717 North 21st Street, Phoenix, Ariz. Applicant's attorney: Arthur H. Glanz, 639 South Spring Street, Los Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, from Richmond, Calif., and Brea, Calif., and points within a radius of five miles of each, to points in New Mexico, and *returned, rejected, or contaminated shipments*, on return.

**HEARING:** September 27, 1960, at the New Mint Building, 133 Hermann Street, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 109749 (Sub No. 9), filed June 23, 1960. Applicant: GAIL W. DAHL AND FRED E. HAGEN, doing business as DAHL TRUCK LINES, 4120 Floyd Avenue, Sioux City, Iowa. Applicant's attorney: Ervin A. Hutchison, 420 Security Building, Sioux City, Iowa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packing house meat, meat products and meat by-products, dairy products and articles distributed by meat packing houses*, as described in Sections A, B and C of Appendix 1 to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Sioux City, Iowa, to Onida, S. Dak., and *returned shipments* of the above commodities, on return.

**HEARING:** September 30, 1960, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 185, or, if the Joint Board waives its right to participate, before Examiner John S. Olshin.

No. MC 110585 (Sub No. 10), filed June 6, 1960. Applicant: REPUBLIC VAN AND STORAGE CO., INC., 330 South Central Avenue, Los Angeles 13, Calif. Applicant's attorney: Glenn W. Stephens, 121 West Doty Street, Madison 3, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *House-*

*hold goods*, as defined by the Commission, between points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.

**NOTE:** Applicant has radial authority in the following States: Texas, Florida, Arkansas, Georgia, Oklahoma, North Carolina, Kansas, and South Carolina, and these States would be changed from radial to non-radial. No duplicate authority is sought. Applicant states if this application is granted, it would eliminate the required use of certain gateways in Oklahoma, New York, Pennsylvania, Tennessee and perhaps other States.

**HEARING:** October 10, 1960, at the Federal Building, Los Angeles, Calif., before Examiner F. Roy Linn.

No. MC 113280 (Sub No. 2) (REPUBLICATION), filed February 17, 1960, published in the FEDERAL REGISTER, issue of March 23, 1960. Applicant: HERBERT KREILKAMP, doing business as KREILKAMP'S TRUCK LINE, 1044 North Main Street, Hartford, Wis. By application filed February 17, 1960, applicant sought authority to operate as a contract carrier by motor vehicle, over irregular routes, transporting: *Malt beverages (beer)*, from West Bend, Wis., to Berwyn and Des Plaines, Ill., and empty containers or other such incidental facilities (not specified) used in transporting the above-described commodity on return. At the hearing held May 26, 1960, at Madison, Wis., it was ascertained that a distributor located at Des Plaines, Ill., a point specified in the application as filed, and in the notice of filing of the application as published in the FEDERAL REGISTER of March 23, 1960, had relocated in River Grove, Ill. The Joint Board, composed of H. L. Brody of Illinois, and M. H. Van Susteren of Wisconsin, allowed an amendment to the application, and in a report and order served June 7, 1960, found that applicant is fit, willing, and able properly to conduct operations as a *contract carrier* by motor vehicle, under a continuing contract with The West Bend Lithia Co., of West Bend, Wis., of *malt beverages* from West Bend, Wis., to Berwyn and River Grove, Ill., over irregular routes. The issuance of a permit will be withheld until the elapse of 30 days from the date of this republication in the FEDERAL REGISTER during which time any party which may have been prejudiced by the amendment, may file an appropriate pleading.

No. MC 115471 (Sub No. 4), filed July 11, 1960. Applicant: JOSEPH WALSH, doing business as NORTH AMERICAN TRANSPORT CO., 5216 Perkins Avenue, Cleveland 3, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed concrete beams, columns, and other metal reinforced concrete products*, from Cleveland, Ohio, to

points in New York, Pennsylvania, Michigan, Illinois, Indiana, and West Virginia.

**HEARING:** September 13, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James H. Gaffney.

No. MC 118991 (Sub No. 1) (SECOND AMENDMENT), filed February 1, 1960, published in the FEDERAL REGISTER issue of July 7, 1960. Applicant: COAST TO COAST TRUCKING CO., a Corporation, 856 Warner Street SW., Atlanta, Ga. Applicant's attorney: Allan Watkins, 214-217 Grant Building, Atlanta 3, Ga. Amendment received July 22, 1960, adds the commodity *yarn* to those proposed to be transported in Item (1) of the application of the above-named company.

**HEARING:** Remains as assigned October 3, 1960, at the Federal Building, Los Angeles, Calif., before Examiner, William E. Messer.

No. MC 119226 (Sub No. 22) (CORRECTION), filed June 2, 1960, published in the FEDERAL REGISTER, issue of July 13, 1960. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, 2, Ind. Applicant's attorney: Robert W. Loser, 409 Chamber of Commerce Building, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lecithin*, in bulk, in tank vehicles, from Gibson City, Ill., to Carnegie, Pa.

**NOTE:** The purpose of this republication is to correct the spelling of the destination point as shown above, incorrectly shown in the application as Carnegie, Pa.

**HEARING:** Remains as assigned September 28, 1960, at the U.S. Court Rooms, Indianapolis, Ind., before Examiner Francis A. Welch.

No. MC-119422 (Sub No. 6) filed July 13, 1960. Applicant: EE-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, East St. Louis, Ill. Applicant's attorney: Joseph H. Goldenhersh, 406 Missouri Avenue, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in bulk, in tank vehicles, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates* 61 MCC 209, between Roxana, Wood River, and Hartford, Ill., on the one hand, and, on the other, points in Mercer, Grundy, Daviess, Caldwell, Ray, Lafayette, Johnson, Henry, St. Clair, Cedar, Dade, Greene, and Stone Counties, Mo., and points in Missouri east of the aforementioned counties.

**NOTE:** Applicant has pending in MC-101082 (Sub 7), application for contract authority, therefore, dual operations may be involved.

**HEARING:** September 13, 1960, at the Missouri Hotel, Jefferson City, Mo., before Joint Board No. 135.

No. MC 119895 (Sub No. 1), filed July 18, 1960. Applicant: INTERCITY EXPRESS, INC., P.O. Box 255, Fort Dodge, Iowa. Applicant's representative: William A. Landau, 1307 East Walnut Street, Des Moines 16, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, and articles*

*distributed by meat packing houses* as defined by Subdivisions A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and 766, between Fort Dodge, Iowa, and Austin, Minn.

**HEARING:** September 21, 1960, in Room 401, Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Joint Board No. 146, or, if the Joint Board waives its right to participate, before Examiner Parks M. Low.

#### APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

##### MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Sub-No. 192) filed July 6, 1960. Applicant: ROADWAY EXPRESS, INC., 147 Park Street, Akron 9, Ohio. Applicant's attorney: William O. Turney, 2001 Massachusetts Avenue NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Savannah, Ga. and Junction of U.S. Alternate Highway 17 and U.S. Highway 17, north of Savannah, Ga., as follows: From Savannah, Ga., over U.S. Highway 17 to junction of U.S. Highway Alternate 17 and U.S. Highway 17, approximately 9 miles north of Savannah, and return over the same route serving no intermediate points.

No. MC 2488 (Sub No. 5), filed July 25, 1960. Applicant: W. R. McGWINN, River Road, Grand River, Ohio. Applicant's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coke and pig iron*, in open or dump trucks, from Erie, Pa., to points in Ohio, Pennsylvania, and New York.

No. MC 19240 (Sub No. 1), filed July 25, 1960. Applicant: ROBERT G. COURTNEY, doing business as COURTNEY'S MOVING & STORAGE, Marion, Ill. Applicant's attorney: W. L. Jordan, 201-2 Merchants Savings Building, 7 South Sixth Street, Terre Haute, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer compounds, manufactured* (including but not limited to ammonium nitrate fertilizer and urea fertilizer), dry in bags or approved containers or in bulk, from Marion, Ill., and points in Illinois within 10 miles thereof to points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin, and empty containers, damaged and rejected shipments, on return.

No. MC 66562 (Sub No. 1704), filed July 18, 1960. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx, General Attorney, Railway Express Agency Law Department (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, including*

*Classes A and B explosives*, moving in express service, between Saginaw, Mich., and Cheboygan, Mich., (1) from Saginaw over U.S. Highway 23 to Cheboygan, and return over the same route, serving the intermediate points of East Tawas, Alpena, Rogers City, and Oscoda, and the off-route point of Wurtsmith Air Force Base (from junction of U.S. Highway 23 and Michigan Highway 171 over Michigan Highway 171 via Wurtsmith Air Force Base to junction of Michigan Highway 171 with U.S. Highway 23, and return over the same route). (2) From Rogers City, Mich., to Cheboygan, Mich., from Rogers City over Michigan Highway 68 to junction with Michigan Highway 33, thence over Michigan Highway 33 to Cheboygan, and return over the same route, serving the intermediate point of Onaway. **RESTRICTIONS:** The service to be performed by applicant shall be limited to service which is auxiliary to or supplemental of air or rail express service of applicant. Shipments transported by applicant shall be limited to those moving on a through bill of lading or express receipt.

**NOTE:** Applicant states the authorized operations will be tacked or joined at Saginaw with applicant's authorized regular-route operations.

No. MC 71096 (Sub No. 33), filed July 20, 1960. Applicant: NORWALK TRUCK LINES, INC., 180 Milan Avenue, Box 320, Norwalk, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, automobiles, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Cleveland, Ohio, and junction U.S. Highway 21 and Ohio Highway 18, over U.S. Highway 21, serving West Richfield, Ohio, and points within four (4) miles thereof, as intermediate and off-route points, restricted to interchange with connecting lines on traffic originating or destined beyond.

No. MC 107496 (Sub No. 169), filed July 20, 1960. Applicant: RUAN TRANSPORT CORPORATION, 408 Southeast 30th Street, P.O. Box 855, Des Moines, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Synthetic resins and vegetable oils* (including vegetable oils modified or blends thereof), *varnish and paint oils*, in bulk, in tank vehicles, from Valley Park, Mo., to Chicago, Chicago Heights, Great Lakes, North Chicago, Rockford, and Springfield, Ill., Indianapolis, Lafayette, and Terre Haute, Ind., Wichita, Kans., Louisville, Ky., Dearborn, Detroit, Ferndale, Grand Rapids, Niles, and Wyandotte, Mich., Minneapolis and St. Paul, Minn., Cleveland, Columbus, and Cincinnati, Ohio, Milton and Superior, Wis.; and (2) *Vegetable oils, varnish, and paint oils*, in bulk, in tank vehicles, (a) from Valley Park, Mo., to Little Rock, Ark., Denver, Colo., Milwaukee, Fort Atkinson, and Sheboygan, Wis.; and (b) from Valley Park, Mo., to Des Moines, Iowa, and Memphis, Tenn.

**NOTE:** Common control may be involved.

No. MC 120053 (Sub No. 2), filed June 17, 1960. Applicant: LESTER LEON HILLIARD, doing business as HILLIARD TRUCK LINE, 2050 East 46th Street, Los Angeles 58, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fish*, and *seafoods*, moving in mixed loads with non-exempt commodities, from Los Angeles, Calif. to Camp Irwin, Calif., George Air Force Base, Calif., and U.S. Marine Corps Supply Center, at Barstow, Calif. and *rejected shipments* on return.

#### NOTICE OF FILING OF PETITIONS

No. MC 106022 (PETITION FOR VACATION OF ORDER DATED SEPTEMBER 5, 1958, AND WAIVER OF RULE 1.101(e) OF GENERAL RULES OF PRACTICE), dated July 6, 1960. Petitioner: V. B. MORGAN CO., a Corporation, Box 547, Barstow, Calif. By petition dated July 6, 1960, petitioner requests waiver of Rule 1.101(e) of the general rules of practice and vacation of the Commission's Order dated September 5, 1958, effective October 13, 1958, which, in effect, reduced the scope of applicant's Certificate dated December 14, 1953, commodity-wise, striking therefrom that portion authorizing the transportation of mineral products and by inserting in lieu thereof "ore" so that the Certificate originally authorizing the transportation of "mineral products and ore concentrates, in bulk" was by the Order of September 5, 1958, changed to read "ore and ore concentrates". The instant petition seeks the revision of the commodity description in the said Certificate so as to authorize the transportation of "*mineral products and ore and ore concentrates*, in bulk," between points in the territory authorized in certain portions of Nevada and California. Any person or persons desiring to oppose the relief sought, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

No. MC 108188 (PETITION FOR WAIVER OF RULE 1.101(e) GENERAL RULES OF PRACTICE AND FOR LEAVE TO FILE PETITION SEEKING MODIFICATION OF AUTHORITY IN CERTIFICATE MC-108188), dated June 12, 1960. Petitioner: ROLLO TRUCKING CORPORATION, INC., Neptune, N.J. Petitioners Practitioners: Bert Collins and Morton E. Kiel, 140 Cedar Street, New York 6, N.Y. Permit No. MC 107545 dated December 20, 1946, authorized petitioner to transport petroleum and petroleum products, in tank trucks, over irregular routes, from Port Socony, N.Y., to points in a specified portion of New York and points in New Jersey north of New Jersey Highway 40, including points and places in New York and New Jersey on, and within five miles of the indicated portions of the highways specified in the Permit. A proceeding assigned docket No. MC 108188 found petitioner a common carrier and authorized the issuance of a Certificate in lieu of the Permit No. MC 107545. Petitioner states that the Certificate as issued failed to include authorization to serve points in New York and New Jersey on

and within 5 miles of the indicated portions of the highways specified. Petitioner further states that the origin point of Port Socony, N.Y., is not shown on any available maps and requests that for the purpose of clarity and definiteness that the origin point be amended to clearly locate the origin territory. Petitioner requests that Rule 1.101(e) be waived and that the Certificate be modified and corrected as to the origin and distance so as to read: *Petroleum and petroleum products*, in bulk, in tank trucks, over irregular routes, from (1) *Staten Island, N.Y.*, to points in New York on and east of New York Highway 34 from Waverly to Auburn, and on and south of the following highways: New York Highway 5 from Auburn to (2) *junction with New York Highway 69*, New York Highway 69 to Rome, thence along New York Highway 49 to Utica, New York Highway 8 from Utica to Ticonderoga, and New York Highway 347 from Ticonderoga to Fort Ticonderoga, and to points in New Jersey on and north of New Jersey Highway (3) 70 (*shown in the Certificate as New Jersey Highway 40*) including points in New York and New Jersey within five miles of the indicated portions of the highways specified. Any person or persons desiring to oppose the relief sought, may, within 30 days from the date of this publication in the FEDERAL REGISTER, file an appropriate pleading.

#### APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under section 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

#### MOTOR CARRIERS OF PROPERTY

No. MC-F 7023, ASSOCIATED TRUCK LINES, INC. — PURCHASE (PORTION) — GEO. F. ALGER CO., published in the October 29, 1958, issue of the FEDERAL REGISTER on page 8379. Applicants' petition for reconsideration, filed July 25, 1960, includes proposals for amendments of the applications under sections 5 and 214 of the Interstate Commerce Act (Finance Docket No. 20500). The amendment in No. MC-F 7023 proposes, among other things, that ASSOCIATED TRUCK LINES, INC., purchase additional operating rights of GEO. F. ALGER COMPANY, and is designed to meet objections noted in the report and order of April 12, 1960, by Division 4. ASSOCIATED TRUCK LINES, INC., would now purchase all operating rights of GEO. F. ALGER COMPANY except those authorizing the transportation, over irregular routes, (1) of *bulk chemicals*, between Detroit, Mich., and points in Michigan within eight miles of Detroit, on the one hand, and, on the other, points in northwestern Ohio, (2) of *cement*, in bulk, between points in Wayne County, Mich., on the one hand, and, on the other, points in northwestern Ohio, and from points in Monroe County, Mich., to points in Indiana and Ohio,

and (3) of *fly ash*, in bulk, in hopper-type vehicles, between points in Michigan, Wisconsin, Illinois, Indiana, Ohio, Pennsylvania, Missouri, Kentucky, Alabama, and Mississippi, subject to restriction.

No. MC-F 7574, THE H & W TRANSIT CO. — PURCHASE (PORTION) — THE CONNECTICUT CO., published in the June 29, 1960, issue of the FEDERAL REGISTER on page 6046. Supplement filed July 21, 1960, to show joinder of EDWARD P. HAYES and JOHN J. WALL, both of 847 Hanover Street, Meriden, Conn., as the persons controlling of vendee.

No. MC-F 7595. Authority sought for merger into HEMINGWAY BROTHERS INTERSTATE TRUCKING COMPANY, 438 Dartmouth Street, New Bedford, Mass., of the operating rights and property of BROOKS TRANSPORTATION COMPANY, INCORPORATED, 438 Dartmouth Street, New Bedford, Mass., and for acquisition by PHILIP HEMINGWAY, also of New Bedford, of control of such rights and property through the transaction. Applicants' attorney: David G. Macdonald, 504 Commonwealth Building, Washington 6, D.C. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier* over regular routes, between Richmond, Va., and New York, N.Y., between Richmond, Va., and Roanoke, Va., between Washington, D.C., and Front Royal, Va., between Washington, D.C., and Staunton, Va., between Lynchburg, Va., and Greensboro, N.C., between Richmond, Va., and Winston-Salem, N.C., between Charlottesville, Va., and Lynchburg, Va., and between Staunton, Va., and Roanoke, Va., serving certain intermediate and off-route points; several alternate routes for operating convenience only; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Danville, Va., on the one hand, and, on the other, Durham, High Point, Salisbury, Concord, Charlotte, Belmont, and Gastonia, N.C.; *Textiles, textile machinery, tire chains, and chemicals* used in the manufacture of textiles, between Washington, D.C., and those points on the above-specified regular routes (including off-route points) between Richmond, Va., and New York, N.Y., Richmond, Va., and Roanoke, Va., Washington, D.C., and Front Royal, Va., and Washington, D.C., and Staunton, Va., which are south of Washington, on the one hand, and, on the other, certain points in Maryland, Pennsylvania and New Jersey; *floor coverings*, from Lancaster, Pa., to those points including the off-route points which are south of Washington, D.C., other than Richmond, Va., on the above-specified regular routes between Richmond, Va., and New York, N.Y., Richmond, Va., and Roanoke, Va., Washington, D.C., and Front Royal, Va., and Washington, D.C., and Staunton, Va. HEMINGWAY BROTHERS INTERSTATE TRUCKING COMPANY is authorized to operate as a *common carrier* in Maine, Connecticut, Rhode Island, Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Co-

lumbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7596. Authority sought for purchase by U. S. A. C. TRANSPORT, INC., 457 West Fort Street, Detroit 26, Mich., of a portion of the operating rights of GULF SOUTHWESTERN TRANSPORTATION COMPANY, 5812 Brock Street, P.O. Box 18104, Houston 23, Tex., and for acquisition by JOHN P. KAVOOLAS, also of Detroit, of control of such rights through the purchase. Applicants' attorneys: Paul F. Sullivan, 1821 Jefferson Place NW., Washington 6, D.C., and Joe G. Fender, Melrose Building, Houston, Tex. Operating rights sought to be transferred: *Contractors' equipment and commodities*, the transportation of which, because of their size or weight, requires the use of special equipment, as a *common carrier* over irregular routes between points in Texas, on the one hand, and, on the other, points in Ohio and the lower peninsula of Michigan, traversing Oklahoma, Missouri, Illinois, and Indiana for operating convenience only. Vendee is authorized to operate as a *common carrier* in 48 States and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F 7597. Authority sought for purchase by VERL HARVEY, INC., doing business as DON WARD & CO., 241 West 56th Avenue, Denver 16, Colo., of the operating rights of KERK TRUCKING CO., Route 4, Box 94, Fort Collins, Colo., and for acquisition by WARDCO, INC., 730 Equitable Building, Denver, Colo., in turn by DON WARD, INC., P.O. Box 1488, Durango, Colo., and in turn by DON WARD, 241 West 56th Avenue, Denver, Colo., and BOYD E. RICHNER, P.O. Box 1488, Durango, Colo. Applicants' attorney: Charles H. Haines, Jr., 730 Equitable Building, Denver 2, Colo. Operating rights sought to be transferred: *Cement*, as a *common carrier* over irregular routes, from Laramie, Wyo., and points within four miles thereof to certain points in Colorado; *lime, plaster retarder, gypsum products, and plastering fibre*, from Loveland, Colo., and points within five miles thereof, to Laramie, Wyo.; *plaster*, from Laramie, Wyo., to LaPorte, Colo., and points within one mile thereof. Under continuing temporary authority granted under section 210a(a) vendee operates as a *common carrier* in Colorado and Wyoming. DON WARD, INC., is authorized to operate as a *common carrier* in Utah, Colorado, and New Mexico. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7598. Authority sought for control and merger by SULLIVAN LINES, INC., 1219 Morris Street, Philadelphia, Pa., of the operating rights and property of RICKENBACHER TRANSPORTATION, INC., 1 Bloomfield Avenue, Newark, N.J., and for acquisition by ARTHUR A. GALLAGHER and BOB R. PINTO, both of Philadelphia, of control of such rights and property through the transaction. Applicants' attorney: William J. Little, 1513 Fidelity Building, Baltimore 1, Md. Operating rights sought to be controlled and merged:

*General commodities*, except those of unusual value, and except dangerous explosives, livestock, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment, which are at the time moving on bills of lading of freight forwarders, as a *common carrier* over regular routes, between Cincinnati, Ohio, and Boston, Mass., between Pittsburgh, Pa., Baltimore, Md., and Washington, D.C., between Harrisburg, Pa., and Baltimore, Md., between Harrisburg, Pa., and Philadelphia, Pa., and between Washington, D.C., and New York, N.Y., serving certain intermediate points; alternate route for operating convenience only between Pittsburgh, Pa., and Steubenville, Ohio, serving neither Steubenville nor the intermediate points. SULLIVAN LINES, INC., is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Maryland, Ohio, Michigan, Delaware, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F 7600. Authority sought for purchase by BURLINGTON TRUCK LINES, INC., 547 West Jackson Boulevard, Chicago 6, Ill., of a portion of the operating rights and certain property of H. B. GREEN TRANSPORTATION LINE, INC., 2860 Mt. Pleasant Street, P.O. Box 945, Burlington, Iowa. Applicants' attorney: James A. Gillen, 547 West Jackson Boulevard, Chicago 6, Ill. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier* over regular routes, between Chicago, Ill., and Ottumwa and Keokuk, Iowa, between Keokuk and Fort Madison, Iowa, and Ottumwa, Iowa, and between Burlington, Iowa, and Bushnell, Ill., serving all intermediate and certain off-route points. Vendee is authorized to operate as a *common carrier* in Colorado, Nebraska, Missouri, Illinois, Iowa, Montana, Wyoming, Kansas, Minnesota, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

#### MOTOR CARRIERS OF PASSENGERS

No. MC-F 7599. Authority sought for purchase by THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago 3, Ill., of a portion of the operating rights and certain property of GIBSON LINES, 1341 P Street, Lincoln, Nebr. Applicants' attorney: Earl A. Bagby, Western Greyhound Lines Division, 371 Market Street, San Francisco 5, Calif. Operating rights sought to be transferred: *Passengers and their baggage*, and *express* in the same vehicle with passengers, as a *common carrier* over regular routes, between Roseville, Calif., and Chico, Calif., between Biggs, Calif., and junction unnumbered highway and U.S. Highway 99E, near Biggs, Calif., and between Oroville "Y" and Oroville, Calif., serving all intermediate points, authority to serve Marysville, Calif., being construed as including authority to serve Hub City Trailer Camp (Marysville), South Marysville, and Olivehurst, Calif. Vendee is authorized

to operate as a *common carrier* in 48 States and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 60-7186; Filed, Aug. 2, 1960;  
8:47 a.m.]

[Notice 357]

#### MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 29, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 63306. By order of July 27, 1960, the Transfer Board approved the transfer to Mid-Town Express & Moving Co., Inc., New York, N.Y., of Certificate in No. MC 52993, issued February 16, 1949, to Menas Megrdichian, doing business as Mid-Town Express & Moving Co., New York, N.Y., authorizing the transportation of: Household goods, between points in Connecticut, New Jersey, and Pennsylvania, on the one hand, and, on the other, New York, N.Y.; between New York, N.Y., on the one hand, and, on the other, points in New York; between New York, N.Y., on the one hand, and, on the other, points in Rhode Island, and Massachusetts. David Brodsky, 1776 Broadway, New York 19, N.Y., for applicants.

No. MC-FC 63424. By order of July 27, 1960, the Transfer Board approved the transfer to B-B-S Transportation, Inc., Marion, Illinois, of a portion of a Certificate in No. MC 19240 issued February 4, 1954, to Robert G. Courtney, doing business as Courtney's Moving & Storage, Marion, Illinois, which authorizes the transportation of fruits and vegetables, over irregular routes, from points in specified counties in Illinois to St. Louis, Mo., Indianapolis, Ind., Nashville, Tenn., and Columbus, and Cleveland, Ohio, and household goods, as defined by the Commission, between points in specified counties in Illinois, on the one hand, and, on the other, points in Missouri, Kentucky, Indiana, Iowa, Ohio, West Virginia, Pennsylvania, New Mexico, Texas, Kansas, Wisconsin, Oklahoma, Tennessee, Michigan, Nebraska, Colorado, Alabama, Arkansas, and the District of Columbia. W. L. Jordan, 201-2 Merchants Savings Building, 7 South Sixth Street, Terre Haute, Indiana, for applicants.

No. MC-FC 63436. By order of July 27, 1960, the Transfer Board approved the transfer to Thomas Meyer and Kingdom Meyer, a partnership, doing business as New Brunswick Transfer, Super Highway #25, P.O. Box 531, New Brunswick, N.J., of Certificate in No. MC 1620, issued August 28, 1943, to Thomas Meyer, doing business as New Brunswick Transfer, New Brunswick, N.J., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between points in Monmouth, Ocean, Union, Hudson, Essex, Somerset, and Middlesex Counties; N.J.

No. MC-FC 63447. By order of July 27, 1960, the Transfer Board approved the transfer to Alfred Seifert, Sr., doing business as Seifert Trucking Co., East Paterson, N.J., of Certificate No. MC 119090, issued November 20, 1959, in the name of Seifert Trucking Co., Inc., amended March 3, 1960, to show the name to be Dowd Transportation Co., Inc., East Paterson, N.J., authorizing the transportation of general commodities, excluding household goods, commodities in bulk, and various specified commodities, over irregular routes, between points in Bergen, Passaic, Essex, Hudson, and Union Counties, N.J., on the one hand, and, on the other, Philadelphia, Pa., and points in that part of New York on the west bank of the Hudson River, and points east of the Hudson River and south of a line beginning at Glens Falls, N.Y., and extending east through Porter, N.Y., to the New York-Vermont State line, except those in Nassau and Suffolk Counties, N.Y.; hand mirrors, from Paterson, N.J., to Schwenksville and Pennsylvania, Pa., and Middletown, N.Y.; and paper napkins, sanitary napkins, and toilet tissue, from Glens Falls and South Glens Falls, N.Y., to points in Middlesex County, N.J. George A. Olsen, 69 Tonnele Ave., Jersey City 6, N.J., for applicants.

No. MC-FC 63452. By order of July 27, 1960, the Transfer Board approved the transfer to Harold Boyd and David Henry, a partnership, doing business as B & H Oil Field Service, Robinson, Ill., of Certificate No. MC 7952, issued April 20, 1942, in the name of Earl R. Bush, Eaton, Ill., authorizing the transportation over irregular routes of livestock, from Palestine, Ill., and points in Crawford, Lawrence and Clark Counties, Ill., to Indianapolis, Ind.; livestock and feed, from Indianapolis and Vincennes, Ind., to points in Crawford County, Ill.; fertilizer, from Indianapolis, Ind., to points in Crawford and Lawrence Counties, Ill.; agricultural implements and machinery, from Indianapolis and Terre Haute, Ind., to points in Crawford County, Ill.; coal, from points in Clay, Sullivan, Gibson, Knox, and Greene Counties, Ind., to points in Crawford County, Ill.; livestock, from points in Putnam and Owen Counties, Ind., to points in Crawford and Lawrence Counties, Ill.; tile and clay products, from points in Clay, Vigo, and Putnam Counties, Ind., to points in Crawford County, Ill.; grain, from points in Crawford and Lawrence Counties, Ill., to Vincennes, Ind.; malt beverages, from Evansville,

Ind., to Robinson, Ill.; and empty malt beverage containers, on return. Omer T. Shawler, Box 67, Marshall, Ill., for transferee Earl R. Bush, Eaton, Ill., for transferor.

[SEAL]

HAROLD D. MCCOY,  
Secretary.

[F.R. Doc. 60-7187; Filed, Aug. 2, 1960;  
8:47 a.m.]

[Rev. S.O. No. 562; Taylor's I.C.C. Order  
No. 121; Amdt. 2]

### LONG ISLAND RAIL ROAD CO.

#### Diversion or Rerouting of Traffic

Upon further consideration of Taylor's I.C.C. Order No. 121 (The Long Island Rail Road Company) and good cause appearing therefor:

*It is ordered, That:*

Taylor's I.C.C. Order No. 121 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) Expiration date: This order shall expire at 11:59 p.m., August 31, 1960, unless otherwise modified, changed, suspended or annulled.

*It is further ordered, That* this amendment shall become effective at 11:59 p.m., July 31, 1960, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., July 28, 1960.

INTERSTATE COMMERCE  
COMMISSION,  
CHARLES W. TAYLOR,  
Agent.

[F.R. Doc. 60-7188; Filed, Aug. 2, 1960;  
8:47 a.m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1283]

### DETROIT AND CLEVELAND NAVIGATION CO.

#### Notice of Filing of Application for Order Exempting Certain Transac- tions Between Affiliates

JULY 27, 1960.

— Notice is hereby given that Detroit and Cleveland Navigation Company ("Navigation"), a registered closed-end non-diversified investment company, has filed an application, and amendment thereto, pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed sale and purchase of securities from and to Navigation by its affiliated person, the Denver Chicago Trucking Company, Inc. ("Trucking"), pursuant to an agreement to merge Navigation into Trucking, with Navi-

gation ceasing to exist as an investment company.

Navigation, a Michigan corporation organized in 1897, for years operated as a navigation company carrying passengers and freight on the Great Lakes. Navigation ceased operations as an operative navigation company in 1950 and all of its vessels and equipment have been disposed of. Navigation registered under the Act on March 8, 1954, and thereafter filed a registration statement in which it stated that it was studying various plans and possibilities of liquidation. On May 29, 1959, Navigation amended its registration statement to state that it was negotiating a merger with Trucking.

Navigation has an authorized capital stock of 150,000 shares of common stock, \$5.00 par value, and thereof 135,643 shares issued and outstanding. Navigation's assets, as of November 30, 1959, consisted of cash amounting to \$344,470; U.S. Government bonds having a market value of \$6,570; 152,416 shares of common stock of Trucking, representing 36.8 percent of its outstanding stock, having a market value at that time of \$26.75 per share or a total value of \$4,077,128; and all the outstanding stock of Dominion Transportation Company, Limited ("Dominion"), with an assigned value of \$300,469, the amount which Navigation paid to acquire this stock in November 1955. The net assets of Navigation, after deducting liabilities of \$19,788, amounted to \$4,708,942 as of November 30, 1959; and the net asset value per share amounted to \$34.72 as of the same date. For the past three fiscal years, Navigation has had net income per share of \$.85 in 1959, \$1.10 in 1958, and \$.80 in 1957, and earnings per share, including its equity in undistributed earnings of Trucking and Dominion, of \$4.02 in 1959, \$2.85 in 1958, and \$3.38 in 1957. Navigation has paid dividends per share of \$.50, \$1.00 and \$.50 in each of these years, respectively. Navigation has a net operating loss carryover of approximately \$285,000, which is principally the result of losses and expenses incurred in 1956 in connection with terminating the business of operating vessels on the Great Lakes.

Dominion's only substantial asset is its ownership of all of the outstanding stock of The Owen Sound Transportation Company ("Owen"). Dominion and Owen are Canadian corporations organized under the laws of the Province of Ontario. Applicant states that since its acquisition of Dominion in 1955, there has been no substantial change in the assets and earnings of Dominion and Owen. Owen operates three ships which transport passengers, automobiles and freight between various points on Georgian Bay and the St. Mary's River within Canadian Borders.

Trucking, a Nebraska corporation, operates as a motor carrier in interstate commerce under certificates of Convenience and Necessity issued by the Interstate Commerce Commission under which general commodities, with certain exceptions, are transported from San Diego and Los Angeles, California, Tacoma, Washington; Boston, Massachu-

setts; and New York and Albany, New York; and St. Louis, Missouri to Denver, Colorado, and return covering some off route and intermediary points. Trucking has an authorized capital stock of 750,000 shares of common stock, \$1.00 par value, and 413,400 shares of stock are issued and outstanding. Trucking, and its wholly-owned subsidiaries, had total assets of \$21,726,606 and total liabilities of \$13,021,370 as of December 31, 1959. Included among the assets of Trucking are 17,200 shares, or approximately 12.8 percent, of common stock of Navigation, amounting to \$165,601 at their cost. The per share book value of Trucking at December 31, 1959 amounted to \$21.26. The net income per share of Trucking for the past three fiscal years has been \$3.73 in 1959, \$2.68 in 1958, and \$3.20 in 1957, and its dividends per share have been \$1.00, \$1.00, and \$1.25, respectively.

Navigation, owning 36.8 percent of Trucking, and Trucking, owning 12.8 percent of Navigation, are affiliated persons of one another as defined in section 2(a)(3) of the Act. By virtue of section 2(a)(9) of the Act, Navigation presumptively controls Trucking by reason of its beneficial ownership of more than 25 percent of the voting securities of Trucking. The cross-ownership as described above is contrary to the provisions of section 20(c) of the Act and will be eliminated by the proposed merger.

Navigation and Trucking have certain common directors and officers. The officers and directors of Navigation and Trucking as a group own an aggregate of approximately 29,000 shares of Navigation, or 21 percent of the outstanding shares.

The directors of Navigation and Trucking have agreed to merge pursuant to an Agreement of Merger ("Agreement") dated June 22, 1959. Under the terms of the Agreement, which is subject to the affirmative vote of at least two-thirds of the common stock outstanding of each of the respective corporations, each share of common stock of Navigation will be exchanged for one and two-fifths shares of the common stock of Trucking; except that no fractional shares of the stock shall be issued, and in lieu thereof, stockholders of Navigation shall receive from Trucking payment at the rate of \$20.00 per full share for the fractional share of Trucking's stock to which they would be entitled. Trucking will continue in existence to operate with the same board of directors and officers as at present. The stock delivered to Navigation's shareholders will have the same par value, rights and conditions as the present issued and outstanding stock of Trucking. If the requisite approval of shareholders is obtained, the merger will become effective upon the filing of a certificate of merger under the laws of the State of Michigan and the laws of

the State of Nebraska. Shareholders who vote against the merger have the right of appraisal and payment of the fair cash value of their shares.

The rate of exchange of 1.4 shares of Trucking for each share of Navigation is equivalent to a total of approximately 190,000 shares of Trucking for the 135,642 shares of Navigation outstanding. In fixing this ratio for the purpose of the merger, it was recognized that Navigation owned 152,416 shares of Trucking, and it was considered that the remaining assets of Navigation which Trucking will acquire in the merger had a value equivalent to approximately an additional 37,500 shares of Trucking. This was determined by adding 52 percent of Navigation's loss carryover to the book value of the net assets of Navigation, exclusive of its investment in Trucking, and dividing this sum by the book value per share of Trucking of approximately \$21.26.

Navigation stock is listed on the Detroit and Midwest Stock Exchanges. Trading during the years 1958 and 1959 was very inactive, only 300 shares having been sold at prices of \$17 and \$18 per share. Through July 1, 1960, 375 shares were sold on these exchanges at prices ranging from \$22½ to \$30. The last closing price on the Detroit Stock Exchange for Navigation stock was \$25 on June 29, 1960.

Trucking stock is sold on the over-the-counter market. In the first quarter of 1960 there was a low bid of \$20 and a high bid of \$26½. In the second quarter of 1960 there was a low bid of \$19½ and a high bid of \$22. The bid and asked price for Trucking stock was \$21½ to \$23½ on July 1, 1960.

Applicant recites that the merger will be advantageous to the shareholders of Navigation because it will permit them to receive dividends directly from Trucking and to participate directly in the election of directors of Trucking, and it will result in the reduction of expenses and taxes. Navigation will also receive credit through the merger for its unused capital loss carryover. Since Navigation is not an operating corporation, it has no profit against which to apply this loss, but it can be used by Trucking as a tax advantage.

Applicant further recites that the merger will be advantageous to the shareholders of Trucking because it will provide Trucking with additional cash and thereby improve its working capital position or provide funds for additional operating equipment, will increase the number of shareholders and thus improve the marketability of the stock, eliminate expenses and taxes incurred in receiving dividends from Navigation which are paid from income derived from Trucking, and provide an opportunity for Trucking to realize on the appreciation of Navigation stock owned by it without any tax consequences.

The net effect of the merger will be the issuance of an additional 13,404 of Trucking stock. Adjusting Trucking's earnings to reflect the issuance of these additional shares, but without excluding dividends received on Navigation stock owned by Trucking or making adjustment to reflect the earnings potential of the additional capital to be received by Trucking, its earnings per share for the last three fiscal years would have been \$3.61 in 1959, \$2.60 in 1958, and \$3.10 in 1957. On this basis, pro forma earnings on the 1.4 shares of Trucking stock to be received for each outstanding share of Navigation stock would have been \$5.05 in 1959, \$3.64 in 1958 and \$4.34 in 1957.

Section 17(a) of the Act, in relevant part, prohibits an affiliated person (Trucking) of a registered investment company (Navigation) from selling to or purchasing from such registered investment company any security or other property, unless the Commission upon application pursuant to section 17(b) grants an exemption from the provisions of section 17(a), after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act. Since the proposed merger involves a sale of securities to Navigation by Trucking and a purchase by Trucking of securities from Navigation, the proposed transaction is subject to the provisions of section 17(a) of the Act.

Notice is hereby given that any interested person may, not later than August 15, 1960, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL]

ORVAL L. DuBois,  
Secretary.

[F.R. Doc. 60-7180; Filed, Aug. 2, 1960; 8:46 a.m.]

## CUMULATIVE CODIFICATION GUIDE—AUGUST

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